



CRP.No.771 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.03.2023

CORAM:

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CRP.No.771 of 2023 and
CMP.No.5940 of 2023

1.Jeyalakshmi

2.N.Megala

... Petitioners

Vs.

1.Savithiri

2.The Tahsildar,
South Taluk, South Taluk Office,
Coimbatore 641 018

3.The District Collector,
District Collector Office,
Coimbatore 641 018

... Respondents

PRAYER:

Civil Revision petition is filed under Article 227 of the Constitution of India to set aside the order passed in IA.No.5 of 2022 in OS.No.2279 of 2012 dated 18.10.2022 by the Hon'ble II Additional District Munsif, Coimbatore.

For Petitioners : Mr.C.Rajaguru



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ORDER

Challenging the impugned order passed in IA.No.5 of 2022 in

OS.No.2279 of 2012 dated 18.10.2022 by the Hon'ble II Additional District Munsif, Coimbatore, the present revision is preferred.

2. The petitioners/ plaintiffs filed application before the trial court praying to receive additional document, more particularly Will dated 24.02.1992 said to be executed by Natarajan. The said application was objected by the first defendant stating that the description of the document sought to be marked on the side of the petitioners herein not been clearly stated and now the case is also posted for cross examination and for the purpose of trial, Will was created by the plaintiffs. As such, she raised objection to receive the same as evidence. The trial Judge considering both the submissions held that the alleged document, more particularly about the Will was not stated in the plaint averments as well as the application. Even if there is any Will they rely on, they ought to have produced the document much earlier and the reason assigned by them not acceptable. Accordingly, the said application was dismissed. Challenging the same, the present revision is preferred.



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3. The learned counsel for the petitioners submits that the first plaintiff is the mother aged about 70 years and unaware of the Will due to his age and the second plaintiff is the daughter who got married and she was not having the particulars about the Will. Now only they traced out and immediately filed application to receive the said document on their side to prove that they are the legal heirs of the said Natarajan. But the trial court stated that about the Will there is no averment in the plaint, without which it cannot be accepted.

4. However, on seeing the plaint, they have not mentioned about the Will, but as the plaintiffs, their claim is to declare themselves as legal heirs of the said Natarajan. Now they are relying the Will said to be executed by the said Natarajan. So the plaintiffs approached Court for declaration so as to prove their claim and if opportunity not given to them to prove their legal heirship by producing the document, their valuable right will be defeated.

5. Considering the above, the trial court findings in IA.No.5 of 2022 is set aside. However, the Will has to be marked as per Section 68 of Evidence Act. Liberty is given to the plaintiffs to mark the said document and the defendants are entitled to raise objection and the validity of the Will and the



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same can be decided during the disposal of the suit.

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6. Accordingly, this civil revision petition is allowed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

31.03.2023

Index :Yes/No

Internet : Yes/No

Speaking order/non-speaking order

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T.V.THAMILSELVI, J.

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To

- 1.The II Additional District Munsif,
Coimbatore.
- 2.The Tahsildar,
South Taluk, South Taluk Office,
Coimbatore 641 018
- 3.The District Collector,
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