



C.R.P.No.2253 of 2016

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.07.2023

CORAM

THE HONOURABLE MR. JUSTICE V. LAKSHMINARAYANAN

C.R.P.No.2253 of 2016

and

C.M.P.No.11686 of 2016

Rama Gounder

...Petitioner/Petitioner/  
2<sup>nd</sup> Defendant

Vs.

1.Ramakkal

...1<sup>st</sup> Respondent/1<sup>st</sup> Respondent  
2<sup>nd</sup> Plaintiff

2.Kannu Gounder

...2<sup>nd</sup> Respondent/2<sup>nd</sup> Respondent  
1<sup>st</sup> Defendant

Devaki Ammal (died)

3.Sakthi

4.Chithra

5.Manjula

6.Santhi

...Respondents 3 to 6/  
Respondents 4 to 7/  
LRs of the 3<sup>rd</sup> Defendant



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**Prayer:** Civil Revision Petition filed under Article 227 of the Constitution of India as against the Fair and Decreetal Order dated 03.06.2016 in I.A.SR.No.510 of 2016 in O.S.No.81 of 1996 on the file of the learned District Munsif, Uthankarai, Krishnagiri District.

For Petitioner : Mr.R.Rajadurai

For Respondents : Mr.M.Sivakumar  
for R3 to R6

R2 – Served – No appearance

### **ORDER**

This is a revision arising from the suit which is unfortunately pending for more than fifty years. Originally, the suit for partition was filed in O.S.No.34 of 1972 before the learned Principal District Judge, Dharmapuri at Krishnagiri District. Today, the suit now pending is re-numbered as O.S.No.81 of 1996 and pending before the learned District Munsif, Uthangarai.



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2.The cause of action for the revision is that the petitioner filed an application to re-open the evidence in order to prove a “Will” had been written by his mother on 03.03.1998. He pleads that he is unable to examine the attestors because the attestors have been won over by the appellants. Therefore, he wanted to examine one Ramachandran in order to substantiate his case. The application filed in order to examine the witnesses was returned on the ground that the enquiry is going to get over. I am extracting the order below:

“தஹ்;F த்ரஹிழ (Enquiry) கோத்யு; ச்;sgoahy; ,k;kD

jpUg;gg;gLfpwJ.”

3.The learned counsel for the revision petitioner would contend that the procedure adopted by the Court is wrong. He states, under the Civil Rules of Practice, if any application is filed it



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is the duty of the Court to number the same, hear the parties, receive the counter and thereafter, pass orders. He relied upon the Judgment of this Court in **Selvaraj v. Koodankulam Nuclear Power Plant India Limited [(2021) 4 CTC 539]**, whereunder this Court has held that at the stage of numbering, the Court should not throw spokes into the same. I respectfully follow the judgment of the Hon'ble Mr. Justice N.SESHASAYEE.

4. Consequently, this Civil Revision Petition is allowed and the learned District Munsif, Uthangarai, is directed to number I.A.SR.No.510 of 2016 and issue notice to the respondents, hear both sides and pass appropriate orders. I feel that if the application had been allowed in the year 2016, the suit itself would have been disposed of by now. I do not want to go into the merits of the case as what is before me is only a revision filed against the return.



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5. Consequently, this Civil Revision Petition is allowed. The learned Trial Judge is directed to number the application and pass appropriate orders and if he finds necessary, to give an opportunity to the petitioner to let in evidence as sought for the “Will” dated 03.03.1998.

Office is directed to return the original papers after obtaining necessary endorsements. No Costs. Consequently, connected Miscellaneous Petition is closed.

**25.07.2023**

Index : Yes/No  
Speaking Order : Yes/No  
Neutral Citation Case : Yes/No  
mps

To

The District Munsif,



C.R.P.No.2253 of 2016

Uthankarai,  
Krishnagiri District.



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**V. LAKSHMINARAYANAN, J.**

mps

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**and**

**C.M.P.No.11686 of 2016**

**25.07.2023**