



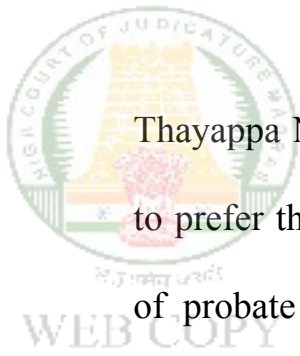
A.No.3055 of 2023 in T.O.S No.67 of 2016

A.A.NAKKIRAN, J.

This application has been filed to implead the applicants/proposed defendants as one of the defendants in the suit in TOS No.67 of 2016 and thereby permit the applicants to participate in the proceedings.

2. Heard both sides.

3. The learned counsel for the applicants submitted that the respondents 1 and 2 have filed originally filed O.P No.981 of 2015 to probate the Will said to have been executed by one D.Baskaran, who is the junior paternal uncle of the 1st applicant. The 1st respondent is the grand son of paternal aunt Manicka Thai, Wife of Ranmanuja Thalaivar through his son Vengusundara Pandian. The 2nd respondent Maheswari is the grand daughter of Manicka Thai through her daughter Valli Mayil. The 1st and 2nd respondents had projected an alleged Will said to have been executed on 19.03.2014 and the said Will is a fraud and fabricated document. The said Baskaran never executed the Will in favour of the respondents 1 and 2 herein. The alleged Will dated 19.03.2014 is surrounded with several suspicious circumstances and the said alleged Will is nothing but an ingenuine document. The said Baskaran had one brother and three sisters namely 1) Manicka Thai, 2) Viswanahan/father of the applicants herein, 3) Rukmani Nachiyar and 4)



Thayappa Nachiyar. Although Baskaran did not have issues, he had no occasion to prefer the respondents 1 and 2 herein to succeed to his properties. At the stage of probate O.P, the respondents 1 and 2 clearly know that they are also the contending parties and they will also have genuine objections to the alleged Will dated 19.03.2014. The respondents herein although had impleaded the sisters Rukmani and Thaiyappa Nachiyar being the sisters of his grand mother Manicka Thai and his aunt Chandra Nachiyar, and his own sister Chellappa Nachiyar, he had calculatedly not impleaded the applicants deliberately. After coming to know about the present proceedings, the applicants have come forward with the present application to implead them as necessary parties in the probate proceedings.

4. The learned counsel for the respondents 1 and 2 vehemently contended that the applicant's father namely B.Vishwanathan is the brother of the Testator, who abandoned the entire family many years ago; on 05.09.2007, the deceased D.Bhaskaran lodged a police complaint against the applicants herein; due to the prior enmity against the Testator and other close relatives of the family, they are in non-speaking terms and they have not even attended the funeral of the Testator. In TOS No.67 of 2016, the 1st respondent was examined as PW1 and one of the attesting witness of the Will executed by the Testator was examined as PW2 and thereafter, the above TOS was posted for arguments. While being so, the present application has been filed to implead the applicants as parties to the TOS, which is



an abuse of process of law and unsustainable. Hence, he prays to dismiss the application.

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5. Though the submissions made by the learned counsel for the respondents 1 & 2/ plaintiffs 1 & 2 are acceptable one, the same has to be proved only at the time of trial. At this stage, this Court is inclined to allow this application.

6. Accordingly, this application is allowed.

7. Learned counsel for the respondents 1 & 2 /plaintiffs is directed to carry out necessary amendment and file a amended copy of plaint.

8. Registry is directed to list the matter before the Additional Master-IV for recording evidence, on 25.07.2023.

11.07.2023

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