



C.R.P.(PD)No.2825 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD)No.2825 of 2019
and C.M.P.No.18516 of 2019

J.Richard Devadoss

.. Petitioner

Vs.

1.Irene Saroja

2.Helen Shanthakumari

3.S.Rajkumar

.. Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decretal order dated 22.07.2019 made in I.A.No.230 of 2018 in O.S.No.1255 of 2017 on the file of the learned XVI Additional Judge, City Civil Court, Chennai.

For Petitioner : Mr. S.Arokia Mani Raj



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For Respondents : Mr. P.H.Thiyagu
for Mr. D.Lourthu Paul Belson

ORDER

The revision arises against an order dated 22.07.2019 made in I.A.No.230 of 2018 in O.S.No.1255 of 2017 on the file of the learned XVI Additional Judge, City Civil Court, Chennai.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondents and perused the entire materials on record.

3. The strenuous objection of Mr. S. Arokia Maniraj is that the document, which is sought to be filed in evidence is a “Will”, which cannot be received in evidence as it is an unprobated one. He would rely upon the judgment of this Court in *Sridharlal vs. Nirdosh, 2009 (2) CTC 157*.

4. It is true, as submitted by the learned counsel for the petitioner that this Court has held that an unprobated Will cannot be received in



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evidence. He would further submit that this Court following the said principles laid down in *Sridharlal vs. Nirdosh, 2009 (2) CTC 157*, has held in an *order dated 23.08.2017 in V.Sekar and others vs. P.Narasimman and others, C.R.P.(PD)No.1299 of 2011*, that unless and until probate is obtained, the Will cannot be received in evidence.

5. I have gone through the suit. I find that the deceased was a Christian. The “Will” has also been executed by a gentleman of the Christian persuasion. In so far as the Christians are concerned, they have been granted exemption from the rigours of obtaining a probate under the Indian Succession Act. The law having been declared by the Parliament, it applies to the parties irrespective of the fact that the Will has been executed before or after the amendment. The position of law is, as on today, a person of the Christian persuasion, need not apply for probate of a Will. Therefore, the objection taken by the learned counsel for the petitioner that probate has to be obtained is unsustainable. Both the judgments relied upon by him relate to the parties, who were Hindus.



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Hindus are still within the fold of Section 57 read with Section 213 of the Indian Succession Act. Both the judgments does not apply, because in this case, the parties are Christians and in the cases cited, the parties are Hindus. Therefore, the objection raised by the learned counsel for the petitioner fails.

6. In the result, the Civil Revision Petition stands dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

02.08.2023

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

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To
XVI Additional Judge, City Civil Court, Chennai.



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V.LAKSHMINARAYANAN,J.

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