



C.R.P.(PD).No.3765 of 2019
and C.M.P.No.24752 of 2019

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2023

CORAM

THE HONOURABLE **MR.JUSTICE N.SESHASAYEE**

C.R.P.(PD).No.3765 of 2019
and C.M.P.No.24752 of 2019

1.Jaganathan
2.Gomathi

... Petitioners

Vs.

1.P.Punitha
2.D.Baby

... Respondents

Prayer: Petition filed under Article 227 of the Constitution of India, seeking to set aside the fair and decreetal order dated 23.10.2019 in I.A.No.3 of 2019 in O.S.No.110 of 2010 on the file of the Sub Court, Perundurai.

For Petitioners : Mr.S.Kaithamalai Kumaran

For Respondents : Mr.V.S.Kesavan

ORDER

This revision is taken out by the legal representatives of 1st defendant in O.S.No.110 of 2010, which was laid for partition of the suit properties.



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2. Earlier, the 1st plaintiff who is now dead, had laid a suit for specific performance against the 1st defendant and had obtained sale of the property through the Court. The property so obtained by the 1st plaintiff was part of a larger property. The 1st plaintiff, hence could not take possession, and therefore he had laid the present suit for partition.

3. The 1st plaintiff had since passed away but not before executing a Will in favour of his two daughters, the plaintiffs 2 and 3 herein. After the demise of the 1st plaintiff, the Will came into effect.

4. Turning to the 1st defendant, he too has passed away and his children have since been impleaded as his legal representatives, they have now taken out an application in I.A.No.3 of 2019, for comparison of the signature of the 1st plaintiff in his Will which he executed in favour of his daughters under Section 45 of the Indian Evidence Act, 1872. This came to be dismissed by the trial Court and is now under challenge.

5. Heard both sides.



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6. Admittedly, the revision petitioners are strangers to the family of the plaintiffs and they do not have any *locus standi* to oppose the Will. Of course, the plaintiff ought to have the Will proved in the manner known to law, but that does not at any rate grant any right to the revision petitioners to question the execution of the Will.

7. In conclusion, this Court does not find any reasons to interfere with the order of the trial Court. Hence, the Civil Revision Petition stands dismissed. No Costs. Consequently, the connected miscellaneous petition is closed.

15.06.2023

Anu
Index : yes / no
Internet : yes / no
Speaking / non speaking

Copy to:
The Sub Court, Perundurai.

N.SESHASAYEE

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