



C.R.P.Nos. 4509, 4514, 4519 & 4523 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.12.2023

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

C.R.P.Nos.4509, 4514, 4519 & 4523 of 2023

and

C.M.P. No.27052 of 2023

L.Rakesh Sharma @ Kumaran

... Petitioner in
all C.R.P.s

Vs.

1. P.Mani
2. Manjula
3. Mamathi @ Mamathirajan
4. Kadalarasy
5. Union of India,
rep. by Chief Secretary,
Government of Puducherry.

6. The District Registrar,
Registration Department,
Saram, Puducherry.

... Respondents in
all C.R.P.s



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PRAYER in C.R.P.No. 4509 of 2023 : Civil Revision Petition filed under Art. 227 of Constitution of India, praying to set aside the fair and decreetal order dated 05.08.2023 passed in I.A.No.735 of 2023 in O.S.No. 16 of 2013 on the file of the III Addl. District Judge, Puducherry.

PRAYER in C.R.P.No. 4514 of 2023 : Civil Revision Petition filed under Art. 227 of Constitution of India, praying to set aside the fair and decreetal order dated 05.08.2023 passed in I.A.No.738 of 2023 in O.S.No. 16 of 2013 on the file of the III Addl. District Judge, Puducherry.

PRAYER in C.R.P.No. 4519 of 2023 : Civil Revision Petition filed under Art. 227 of Constitution of India, praying to set aside the fair and decreetal order dated 05.08.2023 passed in I.A.No.736 of 2023 in O.S.No. 16 of 2013 on the file of the III Addl. District Judge, Puducherry.

PRAYER in C.R.P.No. 4523 of 2023 : Civil Revision Petition filed under Art. 227 of Constitution of India, praying to set aside the fair and decreetal order dated 05.08.2023 passed in I.A.No.737 of 2023 in O.S.No. 16 of 2013 on the file of the III Addl. District Judge, Puducherry.



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For Petitioners in
all C.R.P.s

: Mr.S.Subramanian

COMMON ORDER

Challenging the impugned common order dated 05.08.2023 in I.A.Nos.735 to 738 of 2023 in O.S.No.16 of 2023 passed by learned III Addl. District Judge, Puducherry respectively, the Revision Petitioner/3rd defendant preferred this Civil Revision Petition.

2. Since the relief claimed challenging the order passed by the trial judge, notice to the respondents is dispensed with.

3. The learned counsel for respondents/plaintiffs 1 and 2 filed applications to reopen and permit them to produce original registered Will, original registered cancellation deed, extract from settlement register and to receive the same as additional documents. In all those applications, the respondents/defendants have raised strong objections stating that the respondents/plaintiffs 1 and 2 have not stated any reason for production



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of original Will after completion of evidence. However, when they are in custody of documents, they ought to have produced before commencement of trial, but after completion of trial, they have produced the original Will, as such is not permissible under law. Hence, they prayed to dismiss the applications. On considering both side submissions, the trial judge held that it is true, P.W.2 was already examined, but during trial, he deposed that he is having custody of original Will. So, after completion of his evidence, now he produced the original Will stating that now only she found the said Will. Moreover, the respondents/plaintiffs 1 and 2 filed a suit based on the Will and the explanation submitted by them as such is justifiable one, thereby, all the applications were allowed. Challenging the said findings, the Revision Petitioner/3rd defendant preferred this Civil Revision Petition.

4. The learned counsel for Revision Petitioner would submit that even at the time of filing the suit, the plaintiffs have produced only certified copy of the Will, however, if they possessed the original Will, they ought to have produced the same before commencement of trial, but



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without producing the same, after completion of evidence, they produced the said documents, as such is not permissible under law. For that, they have relied the ratio laid down in the authority reported in **2013 (14) SCC** in the case of ***Bagai Construction vs. Gupta Building Material Store***. Accordingly, they prayed to set aside the findings of trial judge.

5. Records perused. On perusal of entire facts, it reveals that already the plaintiffs produced the certified copy of the Will and now they are ready to produce the original Will. Moreover, the certified copy of the Will has been marked as document on the side of plaintiffs and at that time, the respondents have not raised any objections. Furthermore, based on the Will, the respondents/plaintiffs 1 and 2 filed a suit and if at all, opportunity is not given to them to prove the Will, their valuable right to prove their claim under Sec.68 of Evidence Act will be defeated. Furthermore, the custody of Will is under dispute, the defendants 1 to 3 are entitled to raise all their objections at the time of cross-examination of witnesses with regard to custody of Will. Therefore the findings given by the trial judge needs no interference. Accordingly, these Civil Revision



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Petitions are dismissed and all the applications are also dismissed.

Liberty is granted to the defendants to cross-examine the witnesses in respect of custody of Will. Furthermore, the authority relied on by the learned counsel for Revision Petitioner reported in **2013 (14) SCC** in the case of ***Bagai Construction vs. Gupta Building Material Store*** is not applicable to the facts of the case. However, considering the fact that the suit is of the year of 2013, the trial judge is directed to complete the trial and to dispose the suit as early as possible within a period of three months from the date of receipt of copy of this order. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

14.12.2023

Index : Yes / No
Internet : Yes / No
Speaking/Non-speaking order
rpp
To

II Addl. District Judge,
Puducherry.



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T.V.THAMILSELVI, J.

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