



C.R.P.No. 4844 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2023

CORAM:

THE HONOURABLE Mrs. JUSTICE T.V.THAMILSELVI

C.R.P.No. 4844 of 2023

and

C.M.P.No. 28712 of 2023

- 1.M. Boopathi
- 2.Santhi
- 3.M. Devan
- 4.G. Arul
- 5.Uma
- 6.Latha

.. Petitioners

Vs

- 1.Kamalammal
- 2.The Village Administrative Officer,
VAO Office, Mummudi Village,
Thalaivasal Taluk, Salem District.
- 3.The Revenue Inspector,
R.I. Office, Thalaivasal Taluk,
Salem District.
- 4.The Tahsildar,
Taluk Office, Thalaivasal Taluk,
Salem District.



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5. The Revenue Divisional Officer,
RDO Office, Attur Taluk,
Salem District.

6. The District Collector,
Collectorate, Salem.

7. The Sub Registrar,
Thalaivasal.

8. Salem East Registrar,
Salem.

.. Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 11.10.2023 in I.A.No.1101 of 2022 in O.S.No.203 of 2022 on the file of the Subordinate Court, Attur, Salem District.

For Petitioners : Ms. B.S. Mitraneshaa

ORDER

This Civil Revision Petition is filed challenging the order passed by the trial Judge in I.A.No.1101 of 2022 in O.S.No.203 of 2022, the defendants have preferred this revision.

2. Before the trial Court, the defendants / petitioners herein filed application to reject the plaint on the ground that the Court fee paid by the



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plaintiff / first respondent herein is not correct one, so also, the plaintiff / first respondent herein is no way connected with one A.S.Chinnasamy but she claimed a relief based on a fraudulent Will. Therefore, the defendants / petitioners herein want to reject the plaint and also the plaintiff / first respondent herein is liable to be prosecuted under Section 340 Cr.P.C. That application was contested by the plaintiff / first respondent herein stating that the defendants / petitioners herein created fraudulent partition deed dated 04.05.2022. Further, the question of invoking Section 340 Cr.P.C., would not arise. On considering both submissions, the trial Judge held that both of them throwing allegations against each other and the plaintiff / respondent herein is relying the Will. On the other hand, the defendants / petitioners herein were relying the partition deed. Both the parties are claiming that those two documents are not enforceable and the same can be proved only at the time of evidence. Therefore, the plaint cannot be rejected and accordingly, the application was dismissed. Aggrieved by the said finding, the defendants have preferred this revision.



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3. On seeing the entire facts, it seems that the plaintiff / first respondent herein is relying the Will dated 01.09.1989. On the other hand, the defendants / petitioners herein are relying the partition deed dated 04.05.2022. But admittedly, the plaintiff / first respondent herein is aged about more than 70 years and based on the Will she is claiming right over the property. But to prove the genuineness of the Will as well the genuineness of the partition deed, it requires detailed evidence. Therefore, the trial Judge has rightly rejected the application, needs no interference. Liberty is given to the defendants to file a written statement to raise all the defence before the trial Court. Since the plaintiff / first respondent herein is aged about more than 70 years, the trial Court is directed to dispose the suit within six months from the date of receipt of copy of this order.

4. In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

21.12.2023

Index :Yes/No
Neutral Citation :Yes/No
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To
The Subordinate Court, Attur, Salem District.



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T.V.THAMILSELVI, J.

AT

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