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Application No. 5611 of 2016
in O.P. No. 425 of 2014

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C.V.KARTHIKEYAN, J.

The application has been filed under Section 263 of the Indian Succession Act, 1925, to revoke the Letters of Administration granted to the respondents by an order dated 17.02.2015.

2. O.P. No. 425 of 2014 had been filed by A.Shankar Ganesh seeking Letters of Administration with respect to a Will dated 27.03.1998 executed by his father A.Paramanandam. The first respondent was the mother of the petitioner and the second and third respondents were the brother and sister of the petitioner.

3. After following the due procedure, the petitioner was directed to tender evidence. Accordingly, he examined himself as P.W.1 and on appreciating the evidence and the documents produced, a learned



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Single Judge of this Court by an order dated 17.02.2015 had granted Letters of Administration with Will annexed. Thereafter, this application has been filed on 28.09.2016 seeking to revoke such grant.

4. This application has been filed by Tmt. Kumari Chitra, and Mrs. Rajalakshmi. They claimed that the first applicant is the daughter and the second applicant is the first wife of A.Paramanandam.

5. It had been stated in the affidavit that the respondents had not impleaded them as parties to the probate proceedings. It had also been stated that their names were also not included in the legal heirship certificate. It had been stated that A.Paramanandam was living with them. It has therefore been stated that there was no possibility of him executing any Will.

6. The learned counsel for the respondents particularly, the petitioner in O.P. No. 425 of 2014 stated that the petitioner was not aware about these petitioners at the time of filing the probate petition. It



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was also contended that there was no fraud or malafide intention in not impleading these petitioners. It is contended that the petitioner in the Original Petition and the respondents therein alone were staying with the Paramanandam and thereafter, after his death, having located the Will they had sought grant of Letters of Administration of the Will and that the Will had been proved in the manner known to law. One of the attesting witnesses had spoken about the execution of the Will and one of the attesting witnesses had identified the Will and also stated that Paramanandam was in a normal state of mind at the time of execution of the Will.

7. However, Section 263 of the Indian Succession Act, 1925, which provides for revocation of the grant and the circumstances under which the Court could revoke the grant, states that for just 'cause', grant could be revoked and among various illustrations given, illustration (ii) speaks about non- impleading of necessary parties, who would have a caveatable interest.



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8. In the instant case, it is the claim of the applicants that they are daughter and the first wife of the testator, A.Paramanandam. This fact is actually denied by the respondents. This is a fact which will have to be first established by the applicants before they could have any locus to question the grant already granted, but they could not be ousted even before such opportunity is granted. Therefore, without expressing any opinion on the nature of relationship of the applicants herein and leaving that burden to be proved in manner known to law and to the satisfaction of the Court, I would allow this application. The applicants will have to first establish that the first applicant was actually born to A.Paramanandam and the second applicant was the first wife of A.Paramanandam. Even otherwise, they will still have to dislodge the proof which have been adduced for establishing the Will. viz., the statement of the attesting witness.

9. It is hoped that the attesting witness would still be available to tender the evidence, if called to upon to do so on application made by either one of the two parties.



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10. Without going into discussion, and also placing reliance on the observations of the learned Single Judge of this Court in ***R.Sheela -vs- Radhalakshmi*** reported in ***Manu/TN/5110/2020***, wherein the learned Single Judge has examined about the caveatable interest and had held that if the person establishes that he/she has caveatable interest then he/she has a right to seek revocation of the right already granted, I would allow this application.

11. The application stands allowed. No costs.

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