



CRP.No.3941 of 2015

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

WEB COPY

**DATED : 09.01.2024**

**CORAM:**

**THE HONOURABLE MR.JUSTICE S.SOUNTHAR**

**CRP.No.3941 of 2015**

**and**

**M.P.No.1 of 2015**

1.Pushpavalli  
2.Rukmani Ammal  
3.K.Indirani  
4.S.H.Purushotham  
5.V.S.Yasodha  
6.S.H.Mahesh  
7.S.H.Vijayaprakash  
8.S.H.Sankar  
9.S.M.Thambiah Chetty  
10.S.M.Narayanasamy  
11.S.M.Lingaiah

... Petitioners

**Vs.**

1.K.R.Parvathi  
2.P.M.Amurtalu  
3.V.K.Thirumala  
4.B.L.Janaki  
5.V.R.Dhanalakshmi

...Respondents



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**Prayer:** Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order dated 01.07.2015 passed in I.A.No.210 of 2014 in O.S.No.1561 of 2014 on the file of the learned XVIII Additional Judge, Chennai.

For Petitioners : Mr.M.Manoj Sreevalsan

For Respondents : Mr.K.Selvakumar for R1  
R2 – Vacated  
R3 to R5 – served – No appearance

### **ORDER**

Aggrieved by the order dismissing the petition filed by the petitioners seeking to stay the proceedings in OS.No.1561 of 2014 this Revision is filed.

2. The first respondent filed a suit for partition against the petitioners and other respondents in OS.No.1516 of 2014 on the file of the City Civil Court, Chennai. According to the first respondent, the



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suit property belonged to one Savala Muniamma, the mother of the first respondent/plaintiff and some of the defendants. It was claimed by the first respondent that her mother Savala Muniamma died instate during January 1993. Therefore, the first respondent is entitled to 1/10<sup>th</sup> share in her estate.

3. The suit was mainly resisted by the revision petitioners on the ground that Savala Muniamma executed a Will on 13.05.1986 bequeathing her estate in favour of her sons only and therefore, the first respondent was not entitled to any share in the estate of the testatrix. It was also averred by the petitioners in the written statement that the Probate Original Petition in OP.No.490 of 2014 had been filed before the High Court in respect of the Will executed by Savala Muniamma.

4. In these circumstances, the petitioners herein filed IA.No.210 of 2014 seeking stay of the proceedings in the suit till the



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disposal of the Probate Original Petition in OP.No.490 of 2014, which is pending before this Court. The said application was opposed by the first respondent. The Court below by impugned order dismissed the stay application on the ground that issues involved in the Probate Original Petition are not at all same as the issues involved in the suit. Aggrieved by the same, the petitioners are before this Court.

5. The main defence raised by the petitioners is that their mother Savala Muniamma executed a Will in their favour. Unless genuineness of the Will is decided, the claim of the first respondent for share in the estate of Savala Muniamma cannot be decided by the Court below. Therefore, the issue involved in the Probate Original Petition will have a direct bearing on the main issue involved in the suit. In both the cases the genuineness of the Will is the main issue to be decided. The trial Court erroneously dismissed the application filed by the petitioners seeking stay of the suit. It is agreed by both the counsel that



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Probate Original Petition filed by the petitioners was re-numbered as TOS.No.7 of 2020 and the trial in TOS was already over and the matter was posted for final arguments. Therefore, this Court deems it appropriate that the further proceedings in the partition suit filed by the first respondent shall be stayed till the disposal of the TOS.No.7 of 2020 on the file of this Court. Therefore, the Civil Revision Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

**09.01.2024**

Index : Yes / No  
Internet : Yes / No  
dna

**To**

The XVIII Additional Judge, Chennai.



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**S.SOUNTHAR, J.**

dna

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