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C.R.P.(PD).No.1917 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(PD).No.1917 of 2019

and

C.M.P.No.12618 of 2019

Krishnaveni (Died)

1.Parameshwaran

2.Kodhai Nayaki

3.Vinayaga Moorthy

4.Subramaniyan

... Petitioners

VS

1.Jayarama Mudaliyar

3.Vijayalakshmi

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the Fair and Decreetal order dated 19.03.2019 made in I.A.No.185 of 2017 in O.S.No.137 of 2010 on the file of Subordinate Court, Vaniyambadi, Vellore District and to allow the Civil Revision Petition.



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For Petitioner : Mr.C.Prabakaran

For R1 : Mr.PA.Sudesh Kumar

For R2 : Not Ready in Notice

ORDER

The Civil Revision Petition is filed challenging the order passed by the Trial Court allowing the application filed by the 1st respondent to receive certain documents, which were not filed along with the written statement.

2. In the affidavit filed in support of the petition, it was stated by the 1st respondent that the petitioners/plaintiffs by filing a memo before the Court below sought for production of the Will referred to by the 1st respondent in his written statement dated 20.10.1980. The 1st respondent traced out the above said Will and other supporting documents only now and hence, he was constrained to file the present application seeking leave of the Court to produce the Will and other documents in support of his case.



3. The Trial Court allowed the application filed by the 1st respondent by holding that genuineness of the document can be gone into only at the time of trial. Aggrieved by the said order, the petitioners are before this Court.

4. The learned counsel appearing for the petitioners submitted that though the respondents referred the Will in their written statements itself, but they failed to produce the same along with their written statements. The reason assigned by them for producing the Will at a belated stage is not acceptable.

5. It is not in dispute that the Will dated 20.10.1980 had been referred to by the respondents in their written statements. However, the same was not produced along with the written statements. It is the case of the 1st respondent that he could trace out the Will and other documents only now. In such circumstances, in the interest of justice, the Trial Court had taken a liberal view and allowed the 1st respondent to produce the documents by observing the documents can be received in evidence subject to proof, admission and relevancy.



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6. The genuineness or otherwise of the document cannot be gone into

at this stage and it can be decided only at the time of final disposal of the suit.

Therefore, I do not find any error in the order passed by the Trial Court and accordingly, the Civil Revision Petition is dismissed with a clarification the documents produced by the 1st respondent can be received in evidence only subject to proof, admissibility and relevancy.

7. The petitioners are at liberty to raise their objections regarding proof, admissibility and relevancy at the time marking of the document. The learned counsel for the petitioners also submitted that the main suit is now transferred to the file of Subordinate Court, Ambur and renumbered as O.S.No.689 of 2023. Therefore, the Registry is directed to mark a copy of the order to the Transferee Court. No costs. Consequently, the connected civil miscellaneous petition is closed.

28.02.2024

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
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To

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1.The Subordinate Court,
Vaniyambadi, Vellore District.

2.The Subordinate Court,
Ambur.



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S.SOUNTHAR, J.

dm

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