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C.R.P. No. 2002 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.09.2024

CORAM

THE HONOURABLE MR. JUSTICE V.LAKSHMINARAYANAN

C.R.P. No. 2002 of 2024

1. Sneha

2. Senthilkumar

... Petitioners / Petitioners /
1st and 2nd Defendants

Vs.

1. Dhanalakshmi

... 1st Respondent / 1st Respondent /
Plaintiff

Anwarbike (died)

2. Sub Registrar

Office of the Sub Registrar
Near Taluk Office
Pollachi.

3. Thasildar

Office of the Taluk Office,
Pollachi.

4. VAO (Village Administrative Officer)

Zamin Uthukuli Village
Pollachi.

5. District Collector

Coimbatore.

... Respondents / Respondents /
Defendants 4 to 7

6. Gowrimanohari

... Respondent / Respondent /
8th defendant in O.S. No. 48 of 2019



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7. Ganapathi

... Respondent / Respondent /
9th defendant in O.S. No. 48 of 2019

8. Krishnaveni

... Respondent / Respondent /
10th defendant in O.S. No. 48 of 2019

9. Ayaz

... Respondent / Respondent /
11th defendant in O.S. No. 48 of 2019

10. Krishnakumar

... Respondent / Respondent /
12th defendant in O.S. No. 48 of 2019

11. Gnanapugaleeswari

... Respondent / Respondent /
13th defendant in O.S. No. 48 of 2019

12. Loganathan

... Respondent / Respondent /
2nd defendant in O.S. No. 628 of 2019

13. Arunagiri

... Respondent / Respondent /
1st defendant in O.S. No. 628 of 2019

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and final order dated 07.03.2024 passed in I.A. No. 22 of 2023 in O.S. No. 48 of 2019 on the file of the V Additional District and Sessions Judge at Coimbatore.

For Petitioners : Mr. K.Sudhakar

For Respondent 1 : Ms. Abinu Monisha
Assisted by
Mr. C.Deepak Kumar

For Respondents 2 to 5 : Mr. V.Ramesh
Government Advocate (CS)

For Respondents 6 to 13 : Given up

ORDER



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The civil revision petition arises against the order passed by the learned V Additional District and Sessions Judge, Coimbatore in I.A. No. 22 of 2023 in O.S. No. 48 of 2019 dated 07.03.2024.

2. The civil revision petitioners are the first and second defendants to the suit. O.S. No. 48 of 2019 has been filed for a declaration that the first respondent is the owner of the property, by virtue of 'WILL' executed by one Agathursamy on 05.08.2018 and for consequential relief of injunction.

3. The cause of action for the suit is that one Agathursamy who is the brother of the plaintiff Dhanalakshmi had executed a 'WILL' on 05.08.2018. The plaintiff would plead that Agathursamy executed the 'WILL' bequeathing the property in her favour on account of the fact that the first defendant developed a relationship with one Ayyaz, her classmate in the Engineering College. The plaintiff would allege that the first defendant had eloped with Ayyaz which caused embarrassment to Agathursamy and his wife resulting in them committing suicide on 13.10.2018. She would also plead that on the said date, Agathursamy had left behind him a death note stating that the plaintiff alone is entitled to the property. Since the defendants attempted to interfere with the peaceful possession of the plaintiff, the present suit for the aforesaid reliefs came to be filed.



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4. There is no dispute that the first defendant is the daughter of Agathursamy. She entered appearance and filed a written statement pleading that the 'WILL', on the basis of which the suit had been presented, is a forged one. She would state that the allegation that she eloped with one Ayyaz is absolutely false. She would state that she did not have any affair as alleged and the said pleading is only for the purpose of defaming her fair reputation. She would also take a plea that Agathursamy had got the property by virtue of partition and since she is a co-parcener, she is also entitled to a share over the property.

5. Apart from O.S. No. 48 of 2019, the parties are also before the Court in several other suits. It is pertinent to point out in paragraph no.25 of the written statement, the plaintiff had given the details of the bank account that has been operated by Agathursamy in Canara Bank, Zamin Uthukuli Branch, Pollachi. She would state that her father had taken educational and other loans and, if those documents are produced it would substantiate her plea that the 'WILL' is not one executed by Agathursamy.

6. The parties are sent for trial and recording of evidences are also underway. At that stage, the defendant took out an application seeking for production of records from the Branch Manager, Zamin Uthukuli Branch,



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Pollachi for the records already pleaded in paragraph no.25 of the written statement. This application was received in I.A. No. 22 of 2023. After a receipt of the counter from the plaintiff, the learned Judge went on to dismiss the application on the ground that the petitioner has not stated anything about the particulars of the documents having the admitted signatures of Agathursamy. Hence, this present revision.

7. Heard Mr. K.Sudhakar for the civil revision petitioners and Ms. Abinu Monisha for Mr. C.Deepak Kumar for the 1st respondent and Mr. V.Ramesh, Government Advocate (CS) for respondents 2 to 5.

8. I have gone through the records and perused the impugned order.

9. The narration of the aforesaid facts would go to show that the plaintiff is projecting a 'WILL' said to have been executed by Agathursamy. The defendants would plead that Agathursamy did not execute the 'WILL' in favour of the plaintiff and the document on which the suit has been presented is a forgery. Even while filing the written statement, she has specifically pointed out the accounts that have been maintained by Agathursamy from the year 2013 onwards. The defendants would state if those records are produced, and signature of Agathursamy, which is in the custody of the bank, is



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compared with the signatures found in the 'WILL', it will enable her to establish the case pleaded by her. It is pertinent to note that the pleading on the bank details had been given as early as on 2019. These records, being in the custody of the bank and the accounts being operated by Agathursamy, it would obviously have the signatures of the deceased person. In case those records come before the Court, it will enable the defendants to take further steps in this regard. The only manner in which those records can be produced is by summoning the same. It is that step that the first defendant has taken in this suit.

10. The learned counsel appearing for the respondents would submit that there is no proof to show that these accounts were operated by Agathursamy. This issue can certainly be put to the bank manager when he comes before the Court at the time of marking of documents. In other words, the plaintiff will be entitled to cross examine the bank manager on the ownership of the accounts as well as to whether the accounts were in fact maintained by Agathursamy, her brother.

11. In the light of the above discussion, the order passed in I.A. No. 22 of 2023 in O.S. No. 48 of 2019 dated 07.03.2024 is set aside. The application stands allowed. The plaintiff is permitted to pay batta for summoning the



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Bank Manager, Zamin Uthukuli Branch, Pollachi to produce the petition mentioned records.

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12. In the result, the civil revision petition is allowed. No costs.

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Index : Yes/No
Speaking order : Yes/No
NCC : Yes/No
pal

To

The V Additional District and Sessions Judge at Coimbatore.



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V.LAKSHMINARAYANAN, J.,

pal

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