



Crl.RC.No.1451 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.R.C.No.1451 of 2022
and
Crl.M.P.No.16333 of 2022

G.Rathinam

... Petitioner

Vs

1.The Tahsildar,
Edappadi,
Salem District.

2.Santhi

... Respondents

Prayer:- Criminal Revision Case is filed under Section 397 read with 401 of Cr.P.C., to set aside the order in C.M.P.No.3369 of 2011 dated 08.08.2011, on the file of the Judicial Magistrate No.2, Sankari.

For Petitioner : Mr. A. Saravanan

For R1 : Mr. A. Gopinath
Government Advocate [Crl.Side]

For R2 : Mr. R. Prabakar



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ORDER

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This Criminal Revision Case has been filed against the order, dated 08.08.2011 passed in C.M.P.No.3369 of 2011, on the file of the Judicial Magistrate No.2, Sankari.

2. The brief facts of the case is that the disputed property stands in the name of Karuppa Nadar and he died in the year 1997. But, his death was not registered within the time prescribed by law. Prior to his death, in the year 1995, he executed the Settlement deed in favour of the petitioner and his brother Selvam and thereafter, the petitioner occupied the property. However, the second respondent, who is the grand daughter, through another son has registered the death of the petitioner's grandfather with false date of death as 04.08.1993, by filing a Criminal Miscellaneous Petition in C.M.P.No.3369 of 2011, before the Judicial Magistrate, No.2, Sakari, under the Birth and Deaths Registration Act, to register the death of the said Karuppa Nadar as if, he died on 04.08.1993. But, before prevailing any opportunity to all the legal heirs of the said Karuppa Nadar, the impugned order was passed vide order dated 08.08.2011. Challenging the same, the present petition has been filed.



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3. The learned counsel appearing for the petitioner would submit that the impugned order was passed, in order to rely the same before the Civil Court and to deprive the other legal heirs to adjudicate the issues, since the Settlement deed executed in the year 1995. Whereas, the alleged death claimed by the second respondent is in the year of 1993, which is unsustainable one. In fact, the petitioner and the second respondent's grand father died in the year 1997 but without prevailing any opportunity to the petitioner, who is the other legal heir, the impugned order was passed, which is clear violation of principles of justice accordingly he prayed for suitable order.

4. The learned counsel for the second respondent would submit that though notice was served on the first respondent - Tahsildar, none appeared on their side. Thereafter, the Trial Court after recording evidence of P.W.1 to P.W.3 and after perusal of the documents produced by her, passed the appropriate order, which cannot be interpreted. Accordingly he prayed for dismissal of the petition.



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5. Heard the learned counsel for the petitioner and the learned counsel for the respondents.

6. The fact remains that admittedly, there was a property dispute between the sons of the Karuppa Nadar. The petitioner is son of one Gopal and the second respondent is the grand daughter of one Rathnam. She claimed that her grandfather died in the year 1993 whereas, the petitioner claimed that his grandfather died in the year 1997. In the meanwhile, there was a Settlement Deed allegedly executed by the Karuppa Nadar in favour of the petitioner and his brother Selvam, thereby, the petitioner filed the present petition.

7. Admittedly, before passing the order, the Civil Court has not prevailed any opportunity to the other legal heir, viz., the petitioner and even the second respondent has not even arrayed him as a party to the proceedings, which is not sustainable one. Hence the order of the Trial Court in Crl.M.P.No.3369 of 2011 dated 08.08.2011 is liable to be set aside and the matter is remanded back to the Trial Court. The Trial Court is directed to implead the petitioner as the second respondent and provide sufficient opportunity to him and pass appropriate orders.



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8. Accordingly, the Criminal Revision Case is allowed. The order of the Trial Court in C.M.P.No.3369 of 2011 dated 08.08.2011, on the file of the Judicial Magistrate No.2, Sankari is set aside and the matter is remanded back to the Trial Court for appropriate orders. Consequently, the connected miscellaneous petition stands closed.

05.06.2024

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Internet : Yes

Index: Yes/No

Neutral Citation Case : Yes/No

To:

1.The Tahsildar,
Edappadi,
Salem District.

2.The Public Prosecutor ,
High Court, Madras.



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M.DHANDAPANI,J.,

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