



C.R.P.(PD).No.1336 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(PD).No.1336 of 2017
and C.M.P.No.6218 of 2017

N.Kanniappan

... Petitioner

VS

1.Eswari

N.Danalatchoumy (died)

P.Meenatchi (died)

2.N.Perumal Swamy

3.R.Maily

4.N.Mariyappan

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the order and decree dated 06.02.2017 made in I.A.No.292 of 2012 in O.S.No.310 of 2003 on the file of Additional Sub Judge, Pondicherry.

For Petitioner : Mr.R.Shriram
for M/s.D.Ravichander



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For R1 : Ms.G.Deepika
for M/s.S.Giritharan

For R2 : Died

For R3 and R4 : No Appearance

ORDER

The Civil Revision Petition is filed challenging the order passed by the Trial Court allowing the application filed by the 1st respondent seeking her impleadment as a party defendant in the suit for partition filed by one N.Danalatchoumy.

2. It is the case of the 1st respondent/impleading petitioner that 1st defendant in the suit P.Meenatchi executed a Will in favour of one Ranganathan and after death of said P.Meenatchi, the said Will came into force. The 1st respondent said to have purchased the suit property from above said Ranganathan by registered Sale Deed dated 18.04.2011. Therefore, the 1st respondent filed the instant application I.A.No.292 of 2012 seeking her impleadment as a party defendant in the suit. The said application was opposed by the petitioner herein, who was arrayed as 2nd defendant in the suit



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on the ground that Will relied on by the 1st respondent was not a genuine document.

3. The Trial Court allowed the impleading application filed by the 1st respondent on the ground that main controversy involved in the suit should be decided only in the presence of the 1st respondent. Aggrieved by the same, the petitioner is before this Court.

4. The learned counsel appearing for the petitioner vehemently contended that Will allegedly executed by P.Meenatchi is not a genuine document and the same is forged one. Therefore, without proving the genuineness of the Will, the 1st respondent is not entitled to get herself implead as a party defendant in the suit.

5. It is seen from the records the above said P.Meenatchi was arrayed as 1st defendant in the suit. According to the 1st respondent/impleading petitioner, P.Meenatchi executed a Will in favour of one Ranganathan and after death of P.Meenatchi, the impleading petitioner purchased the property



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covered by the Will from testamentary heir Ranganathan. In the partition suit, neither the testamentary heir of P.Meenatchi namely Ranganathan or the purchaser of the property namely the 1st respondent were made as a party. However, the natural heirs of P.Meenatchi were impleaded. In order to decide the main controversy involved in the suit and to avoid complication at the time of execution, the presence of impleading petitioner, who said to have purchased the property is very much necessary. Certainly, he is a proper party to litigation.

6. As far as the genuineness of the Will is concerned, it is for the 1st respondent/impleading petitioner to prove the same by leading evidence. The same shall be decided at the time of trial. Hence, no interference is called for and the Civil Revision Petition is dismissed by confirming the impugned order passed by the Trial 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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The Additional Sub Judge,
Pondicherry.



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S.SOUNTHAR, J.

dm

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