



C.R.P. (PD) .No. 4286 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.10.2024

CORAM

THE HONOURABLE Mr. JUSTICE

V.LAKSHMINARAYANAN

C.R.P.(PD).No. 4286 of 2024

&

C.M.P.No. 23830 of 2024

1.Poongodi

2.Pappal

...Petitioners

Vs.

1.N.Ayyathurai

2.N.Thangaraj

3.N.Mani

4.N.Loganathan

...Respondents

Prayer: Petition is filed under Article 227 of the Constitution of India against the order dated 02.09.2023 passed in I.A.No.2 of 2022 in



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O.S.No.389 of 2021 on the file of the II Additional District and
Sessions Judge, Tiruppur.

For Petitioner : Ms.Shanas Fathima

ORDER

This Civil Revision Petition arises at the instance of the
defendants 4 and 5.

2. O.S.No.389 of 2021 is a suit for partition and separate
possession. The plaintiff and defendants 1 to 3 are brothers. The 4th
and 5th defendants are sisters of the plaintiff.

3. The case of the plaintiff is that the property was originally
purchased by one Palaniappa Pannadi, Sankarappa Pannadi and
Nanjappa Pannadi on 13.07.1953. He pleaded that on 23.12.1972,
Nanjappa Pannadi executed a “WILL” and he passed away on



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10.05.1973.

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4. Subsequently, on the oral partition between the legal representatives of Palaniappa Pannadi, Sankarappa Pannadi and Nanjappa Pannadi, the suit property was allotted to the plaintiff and the defendants 1 to 3. Subsequently, on 14.07.2020 the plaintiff and defendants 1 to 3 partitioned the property. On account of the fact that the demand for partition by the plaintiff on defendants 1 to 3 was not satisfied, he came forth with the suit for partition.

5. The defendants 4 and 5 pleaded that the alleged “WILL” said to have been executed by Nanjappa Pannadi on 23.12.1972 is false and pleaded that it is a fabricated document. That apart, since the suit is based upon such a false and fabricated document, it is liable to be rejected.



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6. To that effect, they took out an application in I.A.No.2 of 2022. The learned Trial Judge issued notice and called upon the plaintiff to file his counter but no counter was filed. The respondents were set ex parte in the application and the learned Trial Judge heard the arguments of defendants 4 and 5. He dismissed the said application. Hence, this revision.

7. Heard Ms.Shanas Fathima for the civil revision petitioners.

8. Ms.Shanas Fathima argues that the “WILL” dated 23.12.1972 is the act of forgery and the said fact has been confirmed by the Deputy Inspector General of Registration, Coimbatore. Therefore, she argues that the plaint is liable to be rejected since the foundation for the plaintiff's claim is fabricated one.

9. I have carefully considered the arguments of Ms.Shanas



Fathima.

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10. For the purpose of rejection of the plaint, the averments made in the plaint and documents filed therewith alone matter. At that stage, the Court does not look into the defense that might be raised by the defendants. The defendants wanted to file documents to substantiate their case. As pointed out above, at the stage of rejection of the plaint, the Court is not empowered to receive the documents from the defendant. It has to rely only upon the plaintiff's documents.

11. The Deputy Inspector General of Registration, Coimbatore, is not the authority competent to declare the “WILL” as a forged one. Authorities created under the Registration Act are not Civil Courts for the purpose of declaring the “WILL” is a forged document. *Whether the “WILL” dated 23.12.1972 is genuine* has to be proved by the plaintiff / propounder of the “WILL” at the time of disposal of the proceedings. Suffice it to say that the plaintiff is the son of Nanjappa



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Pannadi and since there is no dispute in relationship, he would certainly be entitled to the share. It is left open to the defendants to prove that the “WILL” is forged at the time of Trial.

12. I find no reason to differ from the decision taken by the learned Trial Judge. The Civil Revision Petition is dismissed. Consequently, the connected miscellaneous petition is closed. No costs.

13. At this stage Ms.Shanas Fathima pleads that the parties are senior citizens. The learned Trial Judge shall take into consideration the said fact and dispose of the suit as expeditiously as possible, subject to the exigences of the Diary.

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Index : Yes/No
Internet : Yes/No
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To

The II Additional District and Sessions Judge,
Tiruppur.



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V.LAKSHMINARAYANAN, J.

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