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O.S.A. No.33 c



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.08.2024

CORAM :

THE HON'BLE MR. JUSTICE S.S. SUNDAR

AND

THE HON'BLE MR. JUSTICE K. RAJASEKAR

**O.S.A. No. 33 OF 2023
and C.M.P. No.2716 of 2023**

M. Premchand Ranka (Deceased)

1. Mrs. Shanta Bai
2. Mrs. Sangeetha Ranka
3. Mr. Navin Kumar Ranka ... Appellants

Vs.

1. Mr. Hukmichand Jain
2. Prakashchand Jain
3. Sakuntala Jain
4. Asha
5. Simla
6. Mrs. Chandrakala
7. Rajesh Jain
8. Pankaj Jain
9. Mrs. Chanchal Metha
10. Mrs. Chandrakala Khated ... Respondents

Original Side Appeal filed Under Order 36 Rule 1 of Original Side Rules R/w. Clause 15 of Letter Patent against the Fair Order and Decreetal Order dated 25.11.2022 passed in Application No.5104 of 2013 in O.P.No.771 of 1995 and prayed for setting aside the same and confirm the order dated



07.02.1996 passed in O.P.No.771 of 1995 granting Letters of Administration in favour of Late Premchand Ranka.

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For Appellants : M/s. S. Sadasharam

For Respondents : M/s. N. Nagu Sah

JUDGMENT

(made by K.Rajasekar,J.)

This Original Side appeal is filed challenging the Fair and Decreeal Order dated 25.11.2022 passed in Application No.5104 of 2023 in O.P.No.771 of 1995, wherein the Testamentary Court has allowed the application to revoke the Letters of Administration granted in favour of the appellant herein in respect of WILL dated 16.06.1970.

2. The facts leading to filing of this appeal are as follows:

The Original petitioner in O.P.No.771 of 1995 namely M.Premchand Ranka claims himself as an adopted son of one Misribai W/o. Misrilal filed a petition under Section 232 & 276 of Indian Succession Act, 1925 read with Order XXV Rule 2 of the Original Side Rules of the Madras High Court, seeking grant of Letters of Administration of the WILL dated 16.06.1970 executed by his adoptive mother late Misribai in O.P.No.771 of



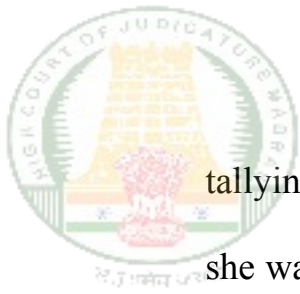
1995. According to him, the WILL is the last testament of his adoptive mother/ Testatrix, who died at Madras on 13.06.1971. The properties mentioned bequeathed in WILL was in absolute possession of Testatrix. The WILL was found in a locker at Rajasthan in the year 1995, thereby there is a delay in filing the petition. Further, he undertook to administrate the properties of his adoptive mother, and to render the true accounts within one year from the said date of issuance of Letters of Authorisation. He filed the petition along with the consent affidavit of one Sugan Devi, who is the biological daughter of the testatrix stating that she has No Objection for granting Letters of Administration. After enquiry, the Testamentary Court has granted Letters of Administration to the propounder i.e., M. Premchand Ranka, based on unregistered WILL dated 16.06.1970.

3. In the year 2013, one Hukmichand Jain S/o Sugan Devi, the first respondent herein had filed present application for revocation of the Letters of Administration granted to Premchand Ranka. After filing the application, the Respondent Nos. 2 to 8 herein were impleaded as Applicant Nos. 2 to 8. According to the applicants, Hukmichand Jain is the son of the said Sugan Devi, who came to know about the issuance of Letters of Administration only in the year 2013. His mother Sugan Devi was died on 27.08.2009, leaving



behind the respondents 1 to 8 herein as her legal heirs. One of his brother Mittalal Jain was died on 03.09.2001 leaving his wife Chandra Jain and his sons Rajesh Jain and Pankaj Jain as his legal heirs. The respondents herein have permanently settled at Mumbai long back, in connection with their business and after death of their grand parents, the said Sugan Devi was in absolute possession and enjoyment of the said properties inherited from her parents during her life time. He came to know that the original applicant Premchand Ranka meddling with the properties belonging to his mother, hence he issued a legal notice on 11.05.2013 to the said Premchand Ranka, and in the reply notice dated 20.05.2013, Premchand Ranka claims himself as adopted son of Mrs. Misribai and the Letters of Administration was issued in his favour by this Court dated 07.02.1996 based on the WILL dated 16.06.1970. Hence he filed application for revocation of the Letters of Administration.

4. He further assailed the WILL stating that his grand mother Misribai knew only Hindi and she was not conversant with English and Tamil languages and the said WILL was typed in English language and the signature of the testatrix was affixed in Hindi and it is stated that the WILL was explained to her in Tamil language. The WILL was typed in two pages and on comparing the signatures on the 1st and 2nd page of the WILL, both are not



tallying with each other. His mother Sugan Devi cited as attesting witness and she was not aware about the execution of the WILL and her signature is forged in the WILL. The consent affidavit of Sugan Devi filed before this Court also forged one. One of the attesting witness Premraj's son confirmed that the signature found in the WILL was not of his father Premraj. During the life time of Misribai, she has not adopted any person. The WILL was fabricated by Premchand Ranka and the same was produced before the Court only in the year 1995, but the testatrix died in the year 1971. He came to know that the step mother of Premchand Ranka namely Mrs. Shantha Devi and his brother Kishanlal Ranka filed applications in A.Nos.2987 and 2988 of 2000 claiming rights in the properties covered by the WILL dated 16.06.1970 and seeking to revoke the Letters of Administration that the testatrix has no title over the property in the subject matter in the WILL dated 16.06.1970 and the petition was allowed. Subsequently, in the appeal filed in O.S.A. No.367 of 2001, the above revocation order was set aside on the ground that the said Shantha Devi and Kishanlal Ranka to raise the title dispute, in Civil Court.

5. The petition filed by the respondent, countered by the appellants herein by re-iterating that propounder was the adopted son of the testatrix namely Misribai W/o Misrilal and she had executed a WILL dated 16.06.1970,



her daughter namely Sugan Devi has attested the WILL and submitted No Objection before the Court for issuance of Letters of Administration. The petitioner came to know about the execution of the WILL on 20.11.1993, when he broke open a locker at Rajasthan and thereafter, he filed a petition for grant of Letters of Administration and after due enquiry, the Letters of Administration was granted in favour of him. Since the respondents have raised title dispute, they shall initiate a separate proceedings and they have come forward to revoke the Letters of Administration after lapse of 18 years. The propounder is in peaceful possession and enjoyment of the said properties from 07.02.1996 onwards.

6. Originally in the year 2015, after due enquiry, the Testamentary Court had dismissed the application filed by the first respondent herein for revocation and to stay the operations of the Letters of Administration by an Order dated 24.03.2015. This order was challenged in O.S.A. No.200 of 2015 and as per the order dated 28.03.2016, the Appellate Court had set aside the order of the learned Single Judge and remitted back to the learned Single Judge for fresh consideration again. After due enquiry, the learned Single Judge by the impugned Order herein dated 25.11.2022 has ordered the revocation of the Letters of Administration granted by an Order dated 07.02.1996.



7. Aggrieved over the revocation of Letters of Administration, the present O.S.A is filed by the propounder of the WILL (i.e., Premchand Ranka).

Submissions on behalf of appellants:

8. It is submitted by the learned counsel for the Appellant that after compliance of various procedural aspects including paper application, enquiry was conducted and Letters of Administration was issued in favour of the Original petitioner M. Premchand Ranka. The mother of the first respondent namely Sugan Devi has already submitted the affidavit for issuance of Letters of Administration, hence based on the affidavit, examination of witnesses were dispensed with during the original enquiry. Sugan Devi, who is biological daughter of the testatrix has given consent affidavit, same is sufficient not only for proving the WILL but also consent for grant of Letters of Administration. Since, she has filed affidavit stating No Objection, she was not added as a party in the original proceedings. The petition for revocation has been filed after the lapse of limitation period prescribed under Section 137 of Limitation Act. Already in O.S.A No.367 of 2001 filed by one Shantha Devi Ranka and Another, plea of fraud was pleaded against the Order of the learned Single Judge dated 02.08.2001 in Application No.2988 of 2000 and the same was



negated by the Division Bench of this Court, hence the finding of the learned Single Judge in the impugned order herein is not sustainable.

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Submissions on behalf of respondents:

9. Per contra, the learned counsel appearing for the respondents submitted that in each and every stage there is a suspicious circumstances surrounding the said WILL and same is established by the respondents herein. Initially, the original petitioner claims that he is a adopted son and the WILL was executed in the year 1970 and the testatrix was died in the year 1971 but the petition for granting Letters of Administration was filed only in the year 1995 and there is an enormous delay and the same was not explained by the propounder. According to the propounder, he found the WILL while he opened a locker at Rajasthan and except this one word, no facts have been elaborately given by the original petitioner to show that how the WILL was came in to his possession. Admittedly, Mrs. Sugan Devi, biological daughter of the testatrix was not added as a party and no notice was served on her, per contra an affidavit has been produced along with the WILL at the time of filing the original proceedings, wherein it has been recorded that the said Sugan Devi has No Objection in issuance of Letters of Administration. Even though the said No Objection affidavit was filed before the Court, Sugan Devi was not



examined as a witness, thereby non examination of Sugan Devi is not only raising suspicious circumstances but also the fact that no attesting witnesses were examined to prove the WILL.

10. The learned counsel appearing for respondents further pointed out that, in this case no original WILL was produced and only a carbon copy of the WILL was produced, thereby the culmination of these suspicious circumstances, lead only to the conclusion that the original petitioner Premchand Ranka had fabricated the WILL and produced the forged documents, played fraud on Court. Thereby considering all the above suspicious circumstances, the learned Single Judge has rightly revoked the Letters of Administration.

11. We have considered the submissions made on both sides and also perused the entire materials placed on record.

Discussions and conclusions:

12. Admittedly, in this case no attesting witness to prove the WILL was examined during enquiry for issuance of Letters of Administration. The Testamentary Court in this impugned order has carefully analysed the scope of



Section 68 of Indian Evidence Act, 1872 and Section 63 of Indian Succession Act, 1924 and has held that, since no attesting witnesses were examined in this case, the said WILL has not been properly proved during original proceedings.

In this case, the testator has taken a stand that the daughter of the testatrix namely Sugan Devi has submitted an affidavit stating "No Objection for issuance of Letters of Administration". The legal heirs of Mrs. Sugan Devi has disputed the signature found in the affidavit and also contended that she did not know either Hindi/ Tamil. The learned Single Judge in his order dated 25.11.2022 in paragraph No.34 has considered this point and has held that she was alive on the date of granting Letters of Administration. She must have been called to tender her evidence to speak about the affidavit, her consent for granting of Letters of Administration, about the WILL and date of its execution. The Order XXV Rule 2 of the Original Side Rules of the Madras High Court provides the list of documents to be annexed along with the application for seeking Letters of Administration. It mandates that the WILL has to be annexed with the Letters of Administration and Form 58 mandates the annexure of document listed under Rule 4(b), which states that the affidavit of one of the attesting witness shall also be annexed under Form 56. The Form 58, also shows the importance of the impleadment of legal heirs in the petition. This filing of affidavit alone is not sufficient to prove the execution of the



WILL, it is only a supporting affidavit for filing the petition for Letters of Administration.

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13. In ***Hussain A Jodhpurwala vs. Yusuf A Jodhpurwala [(2015) 8 MLJ 593]***, the Division Bench of this Court has held in paragraph No.22 that, an application for grant of Letters of Administration under Order XXV Rule 5 read with Form 58 of the Madras High Court Original Side Rules required compliance and thus, the legal heir's ought to have been impleaded in the application filed by the Administrator and notices ought to have been issued to them. In ***Savithri and Ors. vs Karthyayani Amma and Ors. [2007 11 SCC 621]*** in paragraph No.17, the Apex Court has reiterated that the onus to prove the WILL is on propounder and at least one of the attesting witness is required to be examined for the purpose of proving the WILL and the paragraph 17 reads as follows:

"17. ... A WILL like any other document is to be proved in terms of the provisions of the Succession Act and the Evidence Act. The onus of proving the WILL is on the propounder. The testamentary capacity of the testator must also be established. Execution of the WILL by the testator has to be proved. At least one attesting witness is required to be examined for the purpose of proving the execution of the WILL. It is required to be shown that the WILL has been signed by the testator with his free WILL and that at the relevant time he was in sound disposing state of mind and understood the nature and effect of the disposition. it is also required to be established that he has signed



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the WILL in the presence of two witnesses who attested his signature in his presence or in the presence of each other. Only when there exists suspicious circumstances, the onus would be on the propounder to explain them to the satisfaction of the Court before it can be accepted as genuine."

14. The learned Single Judge has also found from the records that the biological daughter of the testatrix was not added as a party, she has not been invited to tender evidence and her name has not even disclosed in petition, thereby the biological daughter was totally placed in dark during the enquiry. Even though, it is stated by the propounder that the biological daughter has given affidavit, but she was not examined before the Trial Court, to establish mental capacity, sound state of mind and also free will of testator at relevant time of execution of WILL. Thereby the learned Single Judge, has rightly held that, the execution of the WILL was not properly proved and the persons, who have interest in the estate of the deceased were kept in dark. These facts, supports the case of the respondents herein that there exists just cause for revocation of Letters of Administration.

15. In this case some more suspicious circumstances have been established by the respondents herein to support their claim of fraud on Court. One among them is, delay in filing petition for Letters of Administration. Even



though, there is no time limit fixed for the presentation of the WILL for probate or Letters of Administration, it is settled that, the propounder shall give proper explanation for delay in presentation and inordinate and unexplained delay is considered as suspicious circumstances. The Division Bench of this Court in ***S. Vatsala vs. K.S. Mohan [(2016) 1 MLJ 513]*** has held in paragraph Nos. 33, 34, 35, 36 and 49 as follows:

"33. It is thus quite apparent that all that is required in the eventuality of the Letters of Administration being applied for after a lapse of three years from the date of death of the deceased, is that there should be an explanation forthcoming for the delay in presentation of the application and not that it would be a bar to institution of such proceedings. In our view, such a requirement is so stipulated on account of there being a continuous right, and long delays would throw suspicion on the Will. However, if this delay is explained and the Will proved in accordance with law, there would be no impediment to the grant of Letters of Administration in respect of the Will.

34. We may examine this matter even from another view point that if Article 137 of the Limitation Act would apply to proceedings for grant of Letters of Administration, then the period of limitation would have to be reckoned from the date when the right to apply accrues and not from the date of death of the deceased. It is only when there is a denial of such right or when the occasion to assert the right accrues, the question of bar of limitation would arise.

Delay and laches:--

35. Though the proceeding filed for grant of probate or letter of administration may not come within the meaning of Article 137 of the Limitation Act in the present case, yet the delay aspect is relevant to test the genuineness of the will propounded.



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36. It is also worthwhile to mention that no period is prescribed for filing petition for probate or letters of administration or Succession Certificate in the Original Side Rules. As extracted above, Rule 9 specifically provides for delay in applying for Probate or Letters of Administration to be explained which is mandatory in nature. Depending upon facts and circumstances of each case, the right to apply for probate or letters of administration made become necessary even beyond three years from the date of death of the testator. One such instance may be when a party came to know of the Will long after the testator's death. Whenever there is delay, it has to explained. More over, if the execution of the Will is proved, the delay in taking steps to probate the Will, will not loom large, since Order XXV, Rule 9 of Madras High Court Original Side Rules has not prescribed any period of limitation and probably, it aims to give explanation alone. Though delay may cause suspicion about the Will, it cannot be held that the application is barred by limitation under Article 137 as it may not be possible to find out as to when the right to apply accrued. Delay in taking steps may be one of the circumstances to be considered while determining the genuineness of the Will.

....

49. In the light of the ratio laid in the above decisions, it cannot be stated that Letters Patent and Rules made thereunder by the High Court for regulating the procedure on the original side, are subordinate legislation and, therefore, only Limitation Act which is a superior legislation will prevail. On a conspectus of the above legal scenario, we conclude that the probate Court has been conferred with exclusive jurisdiction and particularly, the conspicuous absence of any period of limitation in applying for issuance of probate/Letters of Administration makes it clear that the law of limitation will not apply to Sections 232 and 278 of the Indian Succession Act in respect of proceedings initiated before this Court as per the Original Side Rules. In such view of the matter, the finding of the learned single Judge holding that Article 137 of the Limitation Act is not applicable to probate proceedings and dismissal of the Original Applications, in our considered opinion, require no interference."



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16. The Division Bench of this Court in ***Dr.R.A. Venkatesan vs. D. Jenbagalakshmi and others [2012 (2) CTC 278]*** has observed in paragraph No. 23 as follows:

"23. As per Order XXV, Rule 9 of Original Side Rules, in any case where Probate or Letters of Administration is for first time applied for after the lapse of three years from the death of the deceased, the reason for the delay shall be explained in the Petition. Letters of Administration/Probate can be granted only if the delay is explained. In the instant case, Rangabashyam Naidu died on 19.12.1972 and Perundevi Ammal died on 15.11.1973. Appellant has filed O.P. No. 549 of 2003 for grant of Letters of Administration nearly 30 years after the death of the deceased. In O.P. No. 549 of 1993, Appellant has not convincingly explained the reason for the delay. It is pertinent to note that immediately after getting Letters of Administration, Appellant had filed O.S. No. 4995 of 2005 on the file of XV Assistant City Civil Court, Chennai for recovery of possession from the Respondents. Reasonable doubts arise as to the bonafide of the Appellant. In order to prevent misuse of the jurisdiction of the testamentary and intestate matters, we feel that whenever there is an inordinate delay in filing the Petition for Letters of Administration, it would be appropriate that the testamentary Court insist for production of legal heir ship certificate, encumbrance certificate and other relevant documents of the estate of the deceased. Observing that notice ought to have been sent to the next-of-kin and that the aggrieved person has a right to question the Letters of Administration, the learned Judge has rightly revoked the Letters of Administration. Notwithstanding the factual mistake crept in the impugned order, we do not find any reason warranting interference in the impugned order."

17. In ***Gita @ Gita Ravi v. Mary Jenet James @ James MANU/TN/0667/1994 : (1995) 1 ML J 467 : 1995 (2) LW 831***, while



constructing Section 263 of the Indian Succession Act, a Division Bench of this Court has held that the grounds stated in explanation (a) and (e) of Section 263 is not exhaustive and the Court is empowered to revoke the Letters of Administration, if the circumstances warrant or necessitate the revocation. It is observed in paragraph No.33 as follows:

"33 . We have referred to almost all the rulings on Section 50 of the Probate and Administration Act V of 1881 and Section 263 of the Indian Succession Act, 1925 in view of the fact that in none of the cases there was a detailed discussion on the question whether the explanation in Section 263 is exhaustive or illustrative. It was only in Annoda Prosad Chatterjee's case I.L.R. Cal. 95 there was a reasoning for holding that the Explanation in Section 50 of Act V of 1881 was exhaustive. All the subsequent decisions in which the explanation was held to be exhaustive, simply chose to follow that judgment or other judgments which had followed the same. In Shanmugham Chetti's case MANU/TN/0229/1978 : AIR 1978 Mad 304 , though there was an observation that the explanation was illustrative and not exhaustive, there was not much of discussion. It was only in S. Govindaraj's case (1992) 2 L.W. 380, the language of Section 263 was considered at some length. While agreeing with the reasoning found in that judgment, we wish to add that there cannot be any doubt as to the interpretation of the section in that the explanation is only illustrative and not exhaustive. We have already referred to the fact that in Section 234 of Act of 1865 and Section 50 of Act V of 1881, the explanation read in such a way that the words "just cause" were defined in the five clauses which followed the same. Explanations in Section 234 of Act X of 1865 and Section 50 of Act V of 1881 were identical in terms. They read as follows:

Just cause is 1st, that the proceedings to obtain a grant were defective in substance:



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2nd, that the grant was obtained fraudulently by making a false suggestion, or by concealing from the court something material to the case:

3rd, that the grant was obtained by means of an untrue allegation of a fact essential in point of law to justify the grant though such allegation was made in ignorance or inadvertently:

4th, that the grant has become useless and inoperative through circumstances.

It was in 1889 the 5th clause was added in Section 50 of the later Act. In fact, some of the decisions under the old Act referred to the explanation as the definition of the expression 'just cause'. See: In the matter of the petition of Bhobosoonduri Daber Nobeen Chunder Sil and Ors. v. Bhobo Soonduri Daber I.L.R. Cal. 460 and Bal Gangadhar Tilak's case I.L.R. 26 Bom. 792. But, when Section 263 was enacted, the Legislature thought fit to introduce a change in the language, which itself proves that the legislature did not intend the explanation to be exhaustive. The words "just cause shall be deemed to exist where" would only mean that in cases where one of the circumstances set out in Clauses (a) to (e) is present, a legal fiction comes into existence to the effect that in such cases, there is just cause for revocation. If there are circumstances which do not fall within the ambit of Clauses (a) to (e) but which warrant or necessitate the revocation of the grant, the court is entitled to revoke the grant or annul the same even though there is no legal fiction. The discretion granted in the main section to the court is in no way controlled by the explanation as it reads in the present section. It can also be said that the definition in the two old Acts was exhaustive while the definition in the present Act is only inclusive. The view expressed by the Calcutta High Court in Annoda Prosad Chatterjee 's cases, I.L.R. Cal 95, that the fact that the legislature added Clause (e) in 1889 i.e., eight years after the passing of the original Act, indicated that the legislature did not consider the explanation to be merely illustrative, as otherwise, there would have been no necessity to add Clause (e) may be correct. But, once the legislature has chosen to change the wording of the explanation and introduce a legal fiction, it goes without saying that the Legislature



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intended to alter the law that prevailed previously. Hence, under Section 263 of the present Act, the explanation is only illustrative providing for a legal fiction in the cases set out in Clauses (a) to (e) and not exhaustive of the circumstances in which the grant may be revoked or annulled for just cause. Hence, we reject the main contention of the appellants that the respondents are bound to establish any one of the circumstances set out in Clauses (a) to (e) of the Explanation in Section 263 before seeking the revocation of the probate."

18. Admittedly, the original WILL was not produced before the Testamentary Court for issuance of Letters of Administration. According to the propounder, he came to know about the execution of the WILL dated 16.06.1970 only in the year 1995, when he happened to open the locker of the testatrix at Rajasthan. The Testatrix was died in the year 1971 and after 24 years delay, original petition was filed. There is no proper explanation for such delay, which is to be considered as a serious suspicious circumstances. The propounder has also failed to give any further details regarding the place where the WILL was traced and there is no reason stated for non production of original WILL at the time of enquiry. Order XXV Rule 9 of the Original Side Rules provides that, in any case, where an application for probate or Letters of Administration is for first time applied for after the lapse of three years from the date of death of the deceased, the reason for the delay shall be explained in the petition.



19. The suspicious circumstances and non-production of original WILL, further strengthens the case of the respondents that, the appellants herein has obtained the Letters of Administration by adopting several irregular methods and there is improbability of due execution of WILL. The proven suspicious circumstances, further supports the case of the respondents that, by playing fraud on Court, the appellants have obtained Letters of Administration.

20. The other contention of the appellants is that Article 137 of Limitation Act is applicable to the facts of this case and since the revocation petition was filed belatedly after 12 years and the same is barred by limitation. The learned Single Judge also considered this issue and by relying on the judgment of the Hon'ble Apex Court in *A.V. Papayya Sastri & Ors. vs Government of A.P. & Ors. [2007 4 SCC 221]* and the Hon'ble Apex Court has considered *S.P. Chengalvaraya Naidu vs. Jagannath (Dead) by LRs & Ors. [1994 1 SCC 1 :: AIR 1994 SC 853]* has held that various suspicious circumstances established in this case, which is sufficient to prove the fraud in the entire proceedings, which permits the Court to revoke or annul the probate or Letters of Administration.

21. The Section 17 of the Limitation Act, 1968 deals with the "Effect



of fraud or mistake", while reckoning the period of limitation prescribed under
Limitation Act, which reads as under:

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"(1) Where, in the case of any suit or application for which a period of limitation is prescribed by this Act,

(a) the suit or application is based upon fraud of the defendant or respondent or his agent; or

(b) the knowledge of the right or title on which a suit or application is founded is concealed by the fraud of any such person as aforesaid, or

(c) the suit or application is for relief from the consequences of a mistake; or

(d) where any document necessary to establish the right of the plaintiff or applicant has been fraudulently concealed from him; the period of limitation shall not begin to run until the plaintiff or applicant has discovered the fraud or the mistake or could, with reasonable diligence, have discovered it; or in the case of a concealed document, until the plaintiff or the applicant first had the means of producing the concealed document or compelling its production.

(1) Provided that nothing in this section shall enable any suit to be instituted or application to be made to recover or enforce any charge against, or set aside any transaction affecting, any property which

(i) in the case of fraud, has been purchased for valuable consideration by a person who was not a party to the fraud and did not at the time of the purchase know, or have reason to believe, that any fraud had been committed, or

(ii) in the case of mistake, has been purchased for valuable consideration subsequently to the transaction in which the mistake was made, by a person who did not know, or have reason to believe, that the mistake had been made, or



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O.S.A. No.33 c



(iii) in the case of a concealed document, had been purchased for valuable consideration by a person who was not a party to the concealment and did not at the time of purchase know, or have reason to believe, that the document had been concealed."

22. As per Section 17 of the Limitation Act, 1968, in the case of any suit or application for which a period of limitation is prescribed by the Act and the suit/ application is for relief from the consequences of a mistake, based upon fraud of the defendant or respondent or his agent, the period of limitation shall not be to run until the plaintiff or applicant has discovered the fraud or mistake or could, with reasonable diligence, have discovered it.

23. In this case on hand, the respondents claim that they came to know about the issuance of Letters of Administration only in the year 2013. The respondent's mother Sugan Devi was died on 27.08.2009 and the respondents herein have permanently settled at Mumbai long back, in connection with their business and after death of their grand parents, the said Sugan Devi was in absolute possession and enjoyment of the properties inherited from her parents during her life time and thereafter, they came to know that the original applicant Premchand Ranka meddling with the properties belonging to his mother and legal notices were exchanged between



them. These facts clearly indicates that after knowing about the issuance of Letters of Administration in the year 2013, the respondents have filed an application for revocation, hence the Article 137 of the Limitation Act is not applicable.

24. From the discussions made, we are of the view that all these suspicious circumstances and fraudulent activities provides valid ground for revocation of the Letters of Administration granted in favour of M. Premchand Ranka. The learned Single Judge has rightly held that the propounder has played fraud on the Court for obtaining the Letters of Administration and limitation is not applicable to the application filed by the respondent herein. Therefore, this Court finds no merit in this original side application and accordingly, O.S.A. No.33 of 2023 is dismissed with costs. Consequently, connected civil miscellaneous petition stands closed.

(S.S.S.R.,J.) (K.R.S.,J.)
07.08.2024

stn
Index:Yes/No
Speaking Order : Yes/No
Neutral Citation Case : Yes/No



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To:

1. The Section Officer,
VR Section,
High Court,
Madras.

O.S.A. No.33 c





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O.S.A. No.33 of 2023



S.S. SUNDAR, J.,
and
K. RAJASEKAR, J.,
stn

O.S.A. No. 33 of 2023

07.08.2024