



C.M.A.(MD).No.745 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.07.2024

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

C.M.A.(MD).No.745 of 2024
and C.M.P.(MD).No.8250 of 2024

Rasathi ... Appellant/ 2nd Respondent

Vs.

1.Sugapriya ... 1st Respondent/Petitioner

2.The Manager,
Canara Bank,
Kambam Branch,
Kambam Main Road,
Uthamapalayam Taluk,
Theni District. ... 2nd Respondent/1st Respondent

3.Pitchaiammal

4.Panjammal ... Respondents 3 & 4/Respondents 3 & 4

PRAYER : Civil Miscellaneous Appeal is filed under Section 384 of the Indian Succession Act, 1926, to set aside the fair and decreetal order dated 07.02.2024 passed in S.O.P.No.14 of 2023 on the file of the Principal District Court, Theni.

For Appellant : Mr.D.Nallathambi

For Respondents : Mr.G.Vanjinathan for R1

Mr.C.Karthick for R2



C.M.A.(MD).No.745 of 2024

JUDGMENT

WEB COPY

This appeal has been filed to set aside the fair and decreetal order dated 07.02.2024 passed in S.O.P.No.14 of 2023 on the file of the Principal District Court, Theni.

2.This appeal is preferred against the order passed in S.O.P.No.14 of 2023. The above said SOP was filed by the first respondent herein to issue Succession Certificate to enable her to withdraw her share amount of Rs.11,08,155.94 along with interest from the total amount of Rs.22,16,311.82 retained in first respondent's Bank in the A/c.No. 1005101050160 in the name of her deceased husband namely Sivasamy stating that she and her mother-in-law, who is the appellant herein, are the only legal heir of her husband and she has no child. The above said OP was allowed and the petitioner and the 2nd respondent, who is the appellant herein were directed to produce the Judicial Stamp Papers for the preparation of the Succession Certificate.

3.Aggrieved over the same this appeal is filed by the 2nd respondent the mother-in-law on the ground that various suits are



C.M.A.(MD).No.745 of 2024

pending before the civil Court for partition. The trial Court ought to have tried the above said SOP along with the suits.

4.The development has been brought to the notice of this Court to the effect that in respect of the very same subject matter of SOP a suit in O.S.No.194 of 2023 was filed before the learned Additional District Court, Theni, by Pitchammal, Rajammal, who are the respondents 3 and 4 against Paraman, who are the legal heirs of one Paraman, who is the father-in-law of the petitioner Sugapriya, including the appellant herein. Another O.S.No.192 of 2022 was filed by the appellant herein against the first respondent and daughters of the appellant herein for partition. Since the subject matter of this SOP is also covered in the above said partition suit, which are stated to be pending before the Additional District Judge, Theni, whatever observation or order passed in this matter is subject to the result of the above said suits. It is also brought to the notice of this Court that the first respondent/petitioner has withdrawn Rs.11 lakhs, just lying on the account of the Sivasamy S/o Paraman in Canara Bank, Cumbum Branch. The share amount of appellant only is now lying. In view of the observation that has been made by this Court, I am of the



C.M.A.(MD).No.745 of 2024

considered view that if any observation or discussion is made by this Court, it may affect the outcome of the pending suits. It is also made clear that the trial Court must not take into account or influenced by the order passed in SOP.

5.The trial Court namely Additional District Judge, (FTC) Theni, may try the suits in O.S.Nos.192 of 2022 and 194 of 2023 in accordance with law and subject to the result and finding of the above said suits, the parties are at liberty to act upon that.

6.Accordingly, this civil miscellaneous appeal stands Disposed of. No costs. Consequently, connected miscellaneous petition is closed.

10.07.2024

Index : Yes / No

Internet : Yes / No

TM

To

1.The Principal District Judge, Theni.

2.The Additional District Judge, (FTC), Theni.

4/6



C.M.A.(MD).No.745 of 2024

WEB COPY

3. The Section Officer,
E.R. Section/V.R. Section,
Madurai Bench of Madras High Court, Madurai.



WEB COPY



C.M.A.(MD).No.745 of 2024

G.ILANGO VAN,J.

TM

C.M.A.(MD).No.745 of 2024

10.07.2024