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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.12.2024

CORAM

THE HONOURABLE MR.JUSTICE N.**SENTHILKUMAR**

C.R.P.(MD)(PD)No.818 of 2020

and

C.M.P.(MD)No.5554 of 2020

1.R.Shankar

2.R.Kumar

... Petitioners

-VS.-

1.Minor Rahul

2.Minor Ajay

both are represented by their Mother

and Natural Guardian, S.J.Priya

...Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India to set aside the fair and final order, dated 20.02.2020 made in I.A.No.4 of 2019 in I.A.No.1 of 2019 in Probate O.P.No.1 of 2017 on the file of the Principal District Court, Virudhunagar District at Srivilliputhur.

For Petitioner :Mr.Anvithkumar
for Mr.A.Sivaji

For Respondents :Mr.Jothi Basu



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ORDER

The present Civil Revision Petition has been filed challenging the order passed in I.A.No.4 of 2019 in I.A.No.1 of 2019 in Probate O.P.No.1 of 2017, dated 20.02.2020, by the learned Principal District Judge, Virudhunagar District at Srivilliputhur.

2.The respondents, who are minors, represented by their natural guardian, have filed a Probate Original Petition in Pro.O.P.No.1 of 2017 before the Principal District Court, Virudhunagar District at Srivilliputhur, to pass an order granting probate of the Will, dated 10.09.2014 executed by S.R.Jeganatharaja. During the pendency of that petition, the the Revision Petitioners/respondents filed a petition in I.A.No.4 of 2019 in I.A.No.1 of 2019 in Pro.O.P.No.1 of 2017 to mark certain documents, which are annexed along with the application.

3.The trial Court after hearing the both sides and by taking into consideration the Section 281 of the Hindu Succession Act, with regard to the nature of title of S.R.Jeganatharaja and the fact that a case was registered in Cr.No.5 of 2014 for the offences punishable under Sections 222, 223, 276, 281



and 295 IPC, had dismissed the said application by observing that those documents are relevant to prove the case in Probate Original Petition. Challenging the same, present Civil Revision Petition has been filed.

4.The learned Counsel for the Revision Petitioner contended that the documents which are need to be marked are primary documents and dismissing the application without assigning any reasons will cause irreparable loss to the petitioners herein.

5.The learned Counsel appearing for the respondents contended that the Revision Petitioners have not taken a stand that the documents filed in the application are relevant and there are no pleadings in the application and in the absence of any pleadings, the said documents could not be marked before the trial Court.

6.It is not in dispute that at the time of marking of documents, the respondents has a right to oppose the same and the said objection shall be considered by the trial Court while deciding the finality of the original petition.



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Though the revision petitioner contended that those documents are primary documents, whether it is primary documents or secondary documents shall be considered by the trial Court at the time of marking of documents and any objections raised by the respondents will be considered by the trial Court.

7. With the above, the Civil Revision Petition is disposed of and the order passed in I.A.No.4 of 2019 in I.A.No.1 of 2019 in Probate O.P.No.1 of 2017, dated 20.02.2020 by the learned Principal District Judge, Virudhunagar District at Srivilliputhur, is set aside. As the Probate Original Petition is of the year 2017, the trial Court is directed to conclude the proceedings within a period of one year from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

11.12.2024

Internet	:Yes/No
NCC	:Yes/No
Index	:Yes/No

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To

The Principal District Judge, Virudhunagar District at Srivilliputhur.



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N.SENTHILKUMAR, J.

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