



C.R.P.No.1937 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :03.06.2025

CORAM:

THE HON'BLE MR. JUSTICE P.B. BALAJI

C.R.P.No.1937 of 2025

Rajagopalan

.... Petitioner

VS

1.K.Radhakrishnan

2.R.Ashwin

3.Mohana @ Mohanambal

4.Bhuvaneshwari @ Bhuvana

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 21.01.2025 made in I.A.No.4 of 2024 in Probate O.P.No.185 of 2018 on the file of Principal District Judge, Thiruvallur, whereby, allowed the Application on 21.01.2025 is incorrect, perverse, res-judicata, against the principles laid down in Order 1 Rule 10(2) of Civil Procedure Code, non application of mind etc., and the same is required to be set aside.

For Petitioner

: Mr.P.C.Harikumar

For Respondents

: Mr.M.A.Abdul Wahab

ORDER

The revision petition has been filed, aggrieved by the order of the District Court, Tiruvallur, allowing the impleading application, filed by the



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second respondent in the present revision.

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2. Mr.P.C.Harikumar, learned counsel appearing for the revision petitioner invites my attention to the order passed in the earlier round of revision filed before this Court in CRP No.469 of 2024, where, an application filed for the very same purpose, seeking impleadment of the second respondent herein as a party in the OP proceedings, was dismissed. Learned counsel takes me to the said order dated 04.03.2024. He would further submit that there is yet another Will and absolutely there is no pleading in the probate OP filed before the District Court, even whispering about the alleged interest of the second respondent herein. He would further submit that the order of the District Court is illegal, perverse and liable to be interfered with.

3. Per contra, Mr.M.A.Abdul Wahab, learned counsel for the respondents would submit that the Will dated 09.08.2006 which has been filed before the District Court seeking Probate is the same under which Radhakrishnan (first respondent herein) claims and has filed the Probate Petition. He would invite my attention to the said Will and contend that it is a



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registered Will and it has a clear reference to the second respondent who was then minor and property was bequeathed to him. Therefore, he submits that the second respondent is a proper and necessary party to the probate proceedings and there is no infirmity in the order passed by the District Court, allowing the impleading application.

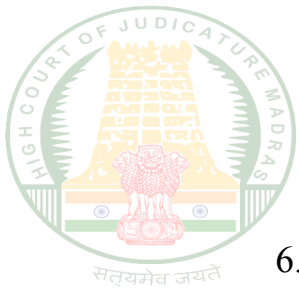
4. By way of reply, Mr.P.C.Harikumar, learned counsel for the revision petitioner submits that even in the OP, the petitioner claims to be the sole beneficiary and there is no mention of any bequest or benefit in favour of the second respondent. He would further submit that the Will also discloses that the petitioner in the OP has no right to file the OP as he is not the beneficiary. Therefore, he submits that the order of the Principal District Court does not stand the scrutiny of law and requires to be set aside. He further contended that it is stated that in the affidavit in the present application to implead as well as in the earlier affidavit filed by the father that it has been stated the OP has been filed when the second respondent was minor and the father had filed OP in the representative capacity. Learned counsel would submit the second respondent had attained majority even on 09.07.2018 and a false contention has been made, not only in the affidavit



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filed in support of the impleading application but also by the first respondent in the earlier round of litigation.

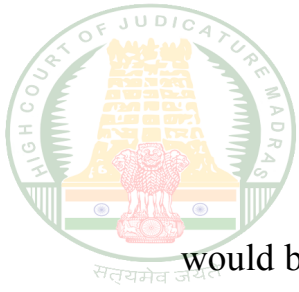
5. I have carefully considered the submissions made by the learned counsel on either side and I have gone through the Will dated 09.08.2006. As contended by the learned counsel for the respondents, the Will is a registered Will, executed by K.Radhakrishnan in the presence of two witnesses. It is seen that in the said Will, a specific bequest made by the testator, Krishnamurthy stating that, with the full consent of first respondent/K.Radhakrishnan, the bequest has been made in favour of his minor son R.Ashwin and also stated that the second respondent was minor, aged about 7 years. His mother viz., Saraswathi has been named as Guardian for the said minor/2nd respondent. The bequest is also the subject to the life interest given to the wife of the testator viz., Sakunthala. Though the learned counsel for the petitioner contends that there is yet another unregistered Will, it is seen from the papers available by way of typed set filed on either side that no such document is before this Court and the only Will which is the subject matter of the dispute is the registered Will dated 09.08.2006.



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6. Having clearly found that the second respondent is named as beneficiary in respect of a portion of the estate, I see absolutely no impediment for the said beneficiary Ashwin being impleaded in the probate proceedings. In fact, the said beneficiary is entitled to be a party to the probate proceedings to secure his interest. Even assuming the averments in support of the impleading application are found to be false, it will not take away the rights of the beneficiary in the Will, to participate in the proceedings. Further, the order passed by this Court dated 04.03.2024 in CRP No.469 of 2024 will also not come in the way of the present impleading application. Therefore, there can be no *res-judicata*.

7. Though Mr.P.C.Harikumar contends that very same set of allegations have been made in the earlier as well as present impleading application, this Court clearly found that beneficiary was not before this Court and only on that technical ground, the said application was dismissed in the earlier round of litigation and this will not be an impediment for the present impleading application being filed. It is always open to the revision petitioner to contest the Will on all available grounds and establish such defences. Merely because the impleading application is allowed, no prejudice



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would be caused to the revision petitioner.

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8. Therefore, I do not find any illegality or perversity in the order passed by the learned Principal District Judge, Tiruvallur in I.A.No.4 of 2024 in Probate OP No.185 of 2018.

9. In the result, the civil revision petition is dismissed. No costs. Considering the fact that OP has been pending from 2018 onwards, pleadings shall be completed within a period of eight weeks from the date of receipt of a copy of this order and the District Court, Tiruvallur shall take steps to expeditiously dispose of OP No.185 of 2018, within a period of six months from the date of completion of pleadings.

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Index: Yes/No

Website:yes/no

Speaking Order/Non-Speaking Order

sr

To

The Principal District Court, Tiruvallur.



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P.B.BALAJI.,J.

Sr

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