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A NO. 411 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-01-2025

CORAM

THE HONOURABLE DR JUSTICE G. JAYACHANDRAN

A NO. 411 of 2023 in O.P.No.368 of 2012

S.Indhumathi And Another
W/o.S.Ingersol Swamidoss, G-42, MADURA GARDENS
NO.15, PH ROAD, MADURAVOYAL, CHENNAI - 600
095 and another

Applicants

Vs

S.Karthikeyan And 2 Others
S/o.Late Mr.R.Saravanan, No.15, EVK Sampath Road,
Vepery, Chennai 600 007.

Respondents

For Applicants : M/s. R. Prathapan
For Respondents : Mr.S.Rajasekaran
for Mr.A.Thirumaran

ORDER

Initially filed an application as if an exparte order was passed in this matter.

Later, this Court found that it is not an exparte order, dismissed the application.

Thereafter, the present petition is filed for revocation.

2. This application is filed to revoke the Letters of Administration granted by this Court vide order dated 19.07.2019 in-respect of the last Will of Late Saravanan.



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3. According to the applicant, as soon as he received notice in the Letters of Administration proceedings in O.P.No.368 of 2023, he engaged the counsel, filed caveat and he was expecting to contest the matter. However, he was not informed about the proceedings and the petition filed for grant of Letters of Administration filed by Karthikeyan, S/o.Saravanan was allowed.

4. Contending that the counsel engaged by them has not informed about the proceedings and they came to know about the grant of Letters of Administration only after the counsel engaged by them died due to Covid-19 Pandemic. The application filed to set aside the exparte order in A.No.331 of 2021 was allowed by this Court on 28.03.2023. However, later the other learned Judge of this Court found that it is not a exparte order at all. Hence, recorded that the Letters of Administration was granted to the petitioner Karthikeyan on contest and it will hold good. If at all, there is any alteration or alternate remedy is required, it is for the respondents 3 and 4 i.e., Indhumathi and Bhanumathi, to defend the case in original petition and to work out the remedy before the appropriate Court/authority.

5. In the Course of the argument, it is brought to the notice of this Court by the counsel appearing for the petitioners Indhumathi and Bhanumathi who are the respondents 3 and 4 in the main original petition that they have already instituted a partition suit in-respect of the properties left by Late R.Saravanan including the



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property at Egmore for which the Letters of Administration granted in favour of Karthikeyan.

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6. This Court finds that the Late Saravanan had several properties and one of them was situated at Chennai which is the subject matter of the Will executed by him and for which, Letters of Administration granted by this Court in favour of Karthikeyan. In-respect of other properties, no doubt, he has executed a settlement deed in favour of others. The parties who have received the property had dealt the property as per the wish and several documents are executed between them.

7. The learned counsel appearing for the applicant relying upon this document submitted that the subsequent events during the life time of Late Saravanan has made the Will executed by him dated 20.03.2000 implicitly revoked. He would also rely upon some un-signed deed of settlement for that purpose.

8. This Court holds that all these subsequent documents have no impact or relevancy to the property mentioned in the Will of Saravanan dated 20.03.2000. It is also to be noted that the applicants Indhumathi and Bhanumathi who are respondents 3 and 4 in the probate proceedings, soon after getting notice in the Letters of Administration had instituted a suit before this Court C.S.No.763 of 2013 and contesting the matter as if they are entitled for $\frac{1}{4}$ share in all the properties left by



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Late Saravanan. While so, they ought to have participated in the probate proceedings, adduced evidence to substantiate how and why the Will propounded by Karthikeyan is not executed by Saravanan in the manner known to law.

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9. Having allowed the Letters of Administration in favour of Karthikeyan in the year 2019, they have come out with novel and new theory to set aside the order, passed five years ago. They are aware of the fact that Will of Late Saravanan been propounded and produced before this Court for grant of Letters of Administration. They are also aware of the fact that the Will to be proved by examining the attesting witnesses.

10. In this case, the Original Petition was filed in the year 2012, attesting witness was examined in the year 2016. Letters of Administration was granted in the year 2019. Ignoring the said fact, the petitioners have filed a partition suit and contesting it without any default. It is a sort of acquiescence on the part of the applicants by conceding the fact that in -respect of the Chennai property Late Saravanan had bequeathed in favour of his son Karthikeyan and in-respect of other property is during his life time itself, Saravanan has settled the property to one of the applicants.



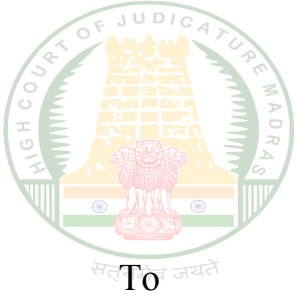
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11. In the said circumstances, this Court finds no merits in this application to revoke the Letters of Administration granted by this Court on 19.07.2019. As held by the Brother Judge, in his order dated 23.06.2022, this Court finds that it is an attempt by the applicants to produce certain documents irrelevant to the proceedings to make cloud over the decision of this Court granting Letters of Administration which was made based on the evidence let in by the petitioner Karthikeyan and supported by one of the attesting witness who was about 80 years old when he mounted the witness box in the year 2016. It is a clear case of attempt to disturb the pronouncement of this Court, belatedly by making frivolous averments and relying upon unsigned and inadmissible documents. Hence, this application application application is dismissed.

10-01-2025

Vv



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To

1. S.Karthikeyan And 2 Others

S/o.Late Mr.R.Saravanan, No.15, EVK Sampath Road, Vepery,
Chennai 600 007.

2. Mrs.S.Krishnaveni

W/o.Late Mr.R.Saravanan, No.15, EVK Sampath Road, Vepery, Chennai 600 007.

3. T.Usha Rani

W/o.Dr.K.N.Thiruvanavakkarasu, Plot No.12, Old Door No.31, New Door NO.26,
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