



WEB COPY

A.No.585 of.



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON 17.03.2025	PRONOUNCED ON 23.04.2025
---------------------------	-----------------------------

CORAM :

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

A.No.585 of 2025
in
C.S.No.233 of 2020

1.Nelson Priyadass Arockia Samy

2.Mr.Jayakumar @ Jose Franklin Savio Arockia Samy

...Applicant/proposed defendants 3&4

vs.

1.Mr.G.M.Jeyaraj

2.Mrs.G.Rita Jeyaraj

... Respondent 2&3/Plaintiffs1

3.Sagayaraj Ramesh

... Respondent/Defendants 1

For Applicant : Mr.Vinod for

Mr.A.Kumar

For Respondent : Mr.V.P.Raju for RR1 & 2

Mr.R.Karunagaran for R3



ORDER

WEB COPY

This application has been filed to permit the applicants to be impleaded as the 3rd and 4th defendants to the pending suit in C.S.No.233 of 2020.

2) Heard Mr.Vinod, learned counsel appearing for Mr.A.Kumar, learned counsel for the Applicant and Mr. V.P.Raju, learned counsel for the respondents 1 and 2 and Mr.R.Karunagaran, learned counsel for the third respondent.

3) Mr.Vinod, learned counsel for the applicant would contend that the suit schedule property of which the lis has been initiated by the first and second respondents originally belonged to the one Simroyalu who died issueless and that the applicants are the brother and grand son of the sister of the said Simroyalu. He would further submit that the said Simroyalu bequeathed the property under a registered Will from his wife M.S.Clara, who had inherited the same from her father after his death, whereby, the mother and brother of M.S.Clara had also relinquished their right and interest in the properties.



WEB COPY

4) He would further contend that the said Simroyalu had also executed a Will in favour of the applicants and the respondents. Therefore, they are also entitled to one third of the share in the property. He would impress upon this Court that the said Will need not be probated as had been executed by a Christian. Therefore, he would submit that the applicants are the necessary and proper party to the lis and therefore, would have to be impleaded as proper and necessary parties.

5) Mr. V.P.Raju, learned counsel appearing on behalf of the first and second respondents who are the plaintiffs in the suit would submit that they do not have any objection as they are also legatees under the Will.

6) On the other hand, Mr.R.Karunakaran, the learned counsel appearing on behalf of the third respondent/ defendant would vehemently oppose the application. He would submit that he do not dispute how the property came to be vested with Simroyalu. The Simroyalu had indeed executed the settlement deed, settling the property in favour of the third respondent alone. Under the



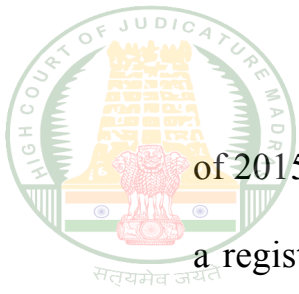
Will the first and the second respondents were given right to continue as tenant till their lifetime by paying necessary rents to the third respondent. In the second floor there was a third party who was continued to be as a tenant and they were not given a share in the property. After the execution of the Will, the said Simroyalu executed a settlement deed in favour of the third respondent in the year 2015. Thereafter, in May 2016, the said Simroyalu by a registered document revoked his Will and also had given the reasoning for the Will being revoked, which being that he had executed a settlement deed in favour of the third respondent. On the very same day, he had also executed a Rectification Deed rectifying certain errors in the original settlement deed of the year 2015 and thereafter, he had been in possession of the property. Even under the Will, there is no bequeath either to the applicants or to the first and the second respondents. The applicants and the first and second respondents are trying to grab the property that had been legitimately vested with the third respondent by creating all types of cock and bull story. Therefore, he would pray this Court to dismiss the application for impleading.

7) I have considered the rival submissions made by the learned counsels appearing for their respective parties and perused the materials available on



WEB COPY

8) There is no dispute that the property came to be vested with one Simroyalu by way of probate of the Will executed by his wife. The grant of probate made by this Court also indicate that the property was wholly bequeathed to Simroyalu without any contingency. The said Simroyalu also executed a registered Will under Document No.31 of 2007. The said Will is admitted by the respective parties. The testamentary disposition of the Will would indicate that the testator had bequeathed the properties in favour of the third respondent herein absolutely and also appointed him to be the executor of the Will. The first respondent who is the plaintiff had been shown to be tenant and was permitted to be continued as a tenant till his wishes or lifetime on payment of rent alone, with regard to the first floor of the schedule property. Similarly, one Mohan who was shown to be a private party was to pay the rent to the third respondent after the demise of the testator which was to be handed over to the testator's sister Salomina till her lifetime. This is the Will on which basis the first and second respondents and the applicants claim the right and title in the property. Under a registered document, the said Simroyalu had settled the property in favour of the third respondent under Document No.5604



A.No.585 of.



of 2015 dated 23.12.2015 on the file of the SRO, Purasawalkam. Thereafter, by a registered Document No.29/III of 2016 dated 05.05.2016 on the file of the SRO, Purasawalkam, the said Will was revoked.

9) A reading of the said revocation would also indicate that the said sister Salomina had died on 22.11.2015 and therefore, he had executed a settlement deed in favour of the third respondent on 23.12.2015 and therefore, he had revoked his Will which was registered on 11.04.2007. Thereafter, he had also executed a registered Rectification Deed in Document No.2211 of 2016 on the file of SRO, Purasawalkam in respect of the Settlement Deed registered as Document No.5604 of 2015. As noted under the Will upon which the applicants claim the right in the property, it had been clearly envisaged that none of the portion of the property was given to either the sister of Simroyalu or to any of the relatives of the sister of Simroyalu.

10) Further, the claim of the applicant is that they are the brother and grandson of the sister. It is very surprising that such a claim is made by the applicants only to Salomina and not to Simroyalu, who is the brother of Salomina. This itself would show that the applicants have approached this



A.No.585 of.



Court with unclean hands without even understanding the relationship between the parties and this application is clearly an abuse of process of Court.

WEB COPY

11) For the aforesaid reasons, I do not find any merits in this Application and accordingly, the same stands dismissed. However, there shall be no order as to costs.

23.04.2025

Index : Yes / No
Internet : Yes / No
Gba



WEB COPY



A.No.585 of.

K.KUMARESH BABU.J.,

Gba

Pre-Delivery Order in
A.No.585 of 2025
in
C.S.No.233 of 2020

23.04.2025