



C.R..P.(PD)(MD).No.515 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(PD)(MD)No.515 of 2025

and

C.M.P(MD) No.2812 of 2025

Parameswari	... Petitioner/1 st Respondent/ 1 st Defendant
1. V.Saravanan	Vs.
2. P.Meenakshi	... 1 st Respondent/Petitioner/ Plaintiff
3. P.Shanmuga Lakshmi	
4. P.Janaki Ravindran	
5. Annamalai	... Respondents 2 to 5/ Respondents 2 to 5/ Defendants 2 to 5
6. P.Parameshwari	
7. P.Valli	
8. P.Jeyalakshmi	
9. P.Subramanian	
10. K.Vel Muthiah	... Respondents 6 to 10/ Respondents 6 to 10/ Defendants 6 to 10



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PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and decretal order dated 17.12.2024 passed in I.A.No.6 of 2024 in O.S.No.315 of 2012 before the Sub Court, Tuticorin by allowing this Civil Revision Petition.

For Petitioner : Mr.V.Meenakshi Sundaram
For R1 : Mr.K.Jeyamohan
For R2 to R4
and R6 to R10 : Mr.K.Khoushik Nivas
For R5 : No appearance

ORDER

First defendant in O.S.No.315 of 2012 on the file of the Sub Court, Tuticorin, has filed the present Civil Revision Petition challenging the order passed by the trial Court, wherein, permission has been granted to the plaintiff to mark a Xerox copy of an unregistered Will as a secondary evidence invoking Sections 65 and 66 of the Indian Evidence Act.

2. A perusal of the records reveal that the suit has been filed for the relief of declaration of title and permanent injunction. In paragraph No.4 of the plaint, the plaintiff has referred to the unregistered Will dated 26.09.2003,



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said to have been executed by one Ramasamy in favour of P.Palthurai. It is clear that the plaintiff is claiming title under this document.

3. When P.W.1 was in the box, he had filed the present application in I.A.No.6 of 2024 under Sections 65 and 66 of the Indian Evidence Act, seeking permission of the Court to mark a Xerox copy of the unregistered Will as a secondary evidence. In the said application, it is averred that one Ramasamy has executed a Will in favour of P.Paulthurai on 26.09.2003, who in turn has sold the property through his power agent. After changing many hands it has been reached the hands of Krishna Kumar, who is said to have created a layout. The plaintiff is a purchaser of one of the plots in the said layout.

4. According to the plaintiff, when he purchased one of the plots, only a Xerox copy of the Will was handed over to him and therefore, he is not in a position to produce the original Will. The reason assigned by the plaintiff has been accepted by the trial Court and his application has been allowed. Challenging the same, the first defendant has filed the present Civil Revision Petition.



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5. According to the learned counsel appearing for the revision petitioner, the unregistered Will is a bogus document and it has been created. That apart, the original Will has not been produced before the Court and the Xerox copy of an unregistered Will cannot be accepted as a secondary evidence.

6. Per contra, the learned counsel appearing for the first respondent/ plaintiff had contended that as a purchaser of one of the plots, there is no possibility for him to get the original of the Will. The plaintiff is not aware of the person, in whose custody the original Will is. In such circumstances, the trial Court has rightly allowed the application for reception of secondary evidence.

7. I have considered the submissions made on either side and perused the materials available on record.

8. The plaintiff in his application in I.A.No.6 of 2024 has given proper reasons for producing a Xerox copy of an unregistered Will as a secondary evidence. The trial Court has rightly accepted the said reasons for production



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of secondary evidence. This Court does not find any error in accepting the secondary evidence. However, it is the contention of the defendant that it is a forged document.

9. In view view of the above said deliberations, the order of the trial Court in permitting the plaintiff to produce the secondary evidence is hereby confirmed. However, at the time of marking, the defendants are entitled to raise their objections with regard to the admissibility of the documents.

10. With the above said observations, this Civil Revision Petition stands disposed of . There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

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NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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1. The Sub Court,
Tuticorin.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR,J.

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