

Mohammed Ibrahim and Another Vs. Junaitha Begam and Another

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Court : Chennai Madurai

Decided On : Nov-22-2016

Judge : D. Krishnakumar

Appeal No. : C.R.P(PD)(MD)No. 2104 of 2011 & M.P(MD)No. 1 of 2011

Appellant : Mohammed Ibrahim and Another

Respondent : Junaitha Begam and Another

Judgement :

(Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, praying this Court to set aside the order made in I.A.No.6 of 2011 in S.O.P.No.1 of 2008, dated 22.6.2011 on the file of the District Munsif Court, Thiruvaiyaru.)

1. This revision has been filed seeking for a direction to set aside the order made in I.A.No.6 of 2011 in S.O.P.No.1 of 2008, dated 22.6.2011, on the file of the District Munsif Court, Thiruvaiyaru.

2. The first respondent herein filed the above S.O.P.No.1 of 2008 for issuance of Succession Certificate for the amount mentioned in the schedule in Savings Bank Account and Fixed Deposits lying with Indian Overseas Bank, Kalyanapuram Branch in favour of the Petitioner. At the time of filing of the above S.O.P, in the schedule, the petitioner has mentioned that the amount available with the second respondent herein/third respondent/Bank will be given after ascertaining it. Thereafter the present application in I.A.No.6 of 2011 has been filed for amending

the original S.O.P to include the details of the amount lying in the bank deposit of the third respondent/bank. The said application was allowed by the trial Court.

3. A counter statement has been filed by the revision petitioners wherein it is stated that the mother of the petitioner has deposited amount with the third respondent/Bank, appointing the first and second respondent as nominees and after the death of the petitioner's mother, on production of death certificate, after observing the formalities of the bank, the amount will be disbursed to the nominees and prayed for dismissal of the said petition and therefore, filing of amendment application is not maintainable.

4. According to the respondents, the prayer in the suit is for issuance of Succession Certificate in favour of the respondent/Plaintiff. In the S.O.P, at the time of filing, the respondent herein was not able to disclose the fixed deposit amount lying with the third respondent/bank. Thereafter only, the first respondent ascertained the said amount and filed the present application to amend the schedule in the said S.O.P. The prayer in the S.O.P is only for issuance of Succession Certificate and as such there is no prayer to claim the share of the respondent/Plaintiff. Hence no prejudice will be caused to the revision petitioner, if the said amendment application is allowed.

5. Heard the learned counsel appearing on either side and perused the materials on record.

6. On a perusal of the records, it is seen that the first respondent herein has filed S.O.P.No.1 of 2008 with a prayer to issue Succession Certificate for the schedule mentioned amount from the second respondent herein/third respondent/Bank. The first respondent/Plaintiff herein has not disclosed the amount available with the third respondent/bank. Thereafter only, it was ascertained and the present application is filed to amend the schedule in the S.O.P to include the amount ascertained lying in the second respondent herein/third respondent/bank.

7. As rightly pointed out by the Court below, no prejudice would be caused to the revision petitioner in amending the amount lying with the third respondent/Bank. The learned counsel for the respondents submitted that the prayer in the S.O.P is

only for issuance of Succession Certificate. After ascertaining the amount lying in the third respondent/Bank, the present application is filed. Further, the first respondent has not claimed for the share in the fixed deposit amount. Even according to the revision petitioner, the the amount lying with the third respondent/Bank was already withdrawn. Therefore, this Court does not warrant any interference in the order of the Court below and thus the revision fails.

8. In view of the above, the Civil Revision Petition is dismissed. Consequently, connected Miscellaneous Petition is dismissed. No costs.

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