

**IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE
VIRUDHUNAGAR**

Present : Thiru. **T.V.Hemanandakumar, B.A.,L.L.M.,**
Additional District Judge, Virudhunagar

Monday, the 22nd day of April, 2024

IA.No.8/2023 & IA No.9/2023 in Probate OP No.1/2023

L.Harikrishnan

... Petitioner/Petitioner

Vs

1) Sulochana

2) R.Subbulakshmi

3) R.Jeyagowri

4) R.Venkateswaran

5) Jeevarathinam

... Respondents/Respondents

These petitions came up on 12.04.2024 for final hearing before me in the presence of Thiru.B.Ravi Raja, Learned advocate for the Petitioner / Petitioner, though the respondents 3 to 5 entered through their advocate, they did not file counter in these petitions, they remained set exparte and the respondents 1 & 2 already remained exparte in main original petition and upon considering all material records in this case and hearing the argument and having stood over till this day for consideration and this court doth deliver the following

ORDER

Petition in IA No.8/2023 is filed by the petitioner to appoint a licensed Valuer to value the petition schedule properties and to file the report.

2. Petition in IA No.9/2023 is filed to appoint a Receiver to administer the petition schedule properties.

3. It is alleged in the petitions that the petitioner is the petitioner in Probate OP No.1/2023. That petition is filed to probate the registered will dated 27.09.2019 executed by Late. K.K.S.R.Rajagopalan who died on 06.02.2022. The

probate petition was filed before the II Additional District Court, Trichy which was transferred to this court and renumbered as OP No.1/2023. This petitioner filed IA No.5/2022 in OP No.160/2022 for appointment of Curator and that was allowed. The hon'ble Madurai Bench of Madras High Court set aside the above order in CRP (MD) No.455/2022 directing the petitioner to file necessary petition under Order XL CPC before this court. This petition is filed to protect and safeguard of the interest of the beneficiaries of the will. 4th respondent alone is taking the benefit of income generated from the properties for the last 2 years. The petitioner is the executor who incurred further expenses from and out of his own pocket. From the various pleadings before the District Court and High Court there is reference to 3 wills. There will be delay in disposing the case. The 4th respondent has to be restrained from dealing with the affairs of the assets of deceased. Receiver has to be appointed to take inventory and the premises for securing the property from misappropriation. maladministration or wastage.

4. The respondents 3 to 5 appeared through their counsel and did not file any counter, remained exparte.

4. There is no evidence and documents.

5. The point for consideration is Whether these petitions deserve to be allowed?

6. Heard and documents perused.

7. Point:

These petitions are filed for appointment of Valuer to value the petition schedule properties and for appointment of a Receiver. It is the case of petitioner that the owner of the properties K.K.S.S.R.Rajagopalan executed a registered will bequeathing all the scheduled properties in favour of his grand-daughter and life interest to 5th respondent Jeevarathinam. Now, all the properties are in the hands of 4th respondent and he is taking the benefits from the properties.

8. Originally the petition for probate of the will of K.K.S.S.R.Rajagopalan

dated 27.09.2019 was filed before the II Additional District Court, Tiruchirappalli. One of the daughters of said K.K.S.S.R.Rajagopalan filed another suit for partition before this court as OS No.29/2023. Subsequently, the Propate OP No.160/2022 on the file of learned II Additional District Judge, Trichy was transferred to this court and renumbered as Propate OP No.1/2023. While this case was pending before the learned II Additional District Judge, Trichy, the petitioner filed IA No.5/2022 before that court for appointment of Curator. That petition was allowed. Aggrieved over that order, the 4th respondent Venkateswaran filed Civil RP (MD) No.455/2023 before hon'ble Madurai Bench of Madras High Court. The hon'ble Madurai Bench of Madras High Court set aside the order and held as follows:

"It is also open for the respondent to file appropriate application under Order XL of CP.C for appointment of a Receiver. The petitioner shall also co-operate in the said proceedings."

As per the above direction, this petition is filed. It is seen from the records that the 4th respondent also claiming right over the properties under an unregistered will dated 15.01.2022. So, there is a rival claim and case has to be conducted as a regular suit. It will delay the proceedings and during the pendency of the case, the 4th respondent is taking the benefits from the properties. So, the real income from the properties and the value of the total properties have to be assessed and for that purpose, this court is of the view that a Receiver can be appointed. Regarding the petition in IA No.8/2023 to appoint a Valuer this court is of the view that separate Valuer need not be appointed and if necessary it is for the Receiver who can take assistance of the Valuer.

9. In the result,

i) IA No.8/2023 is dismissed. No order as to costs.

ii) IA No.9/2023 is allowed. Advocate Thiru.P.Mohandoss, B.B.A.,B.L.,

Retired District Judge, No.3/404, Ayyanar Koil Street, Surveyor Colony, Madurai-625 007 is appointed as Receiver in this case. For the purpose (i) assessing the value, management, protection, preservation and improvement of the scheduled properties. (ii) To collect the rent and profit thereafter and maintaining proper account.

iii) The remuneration of the Receiver is initially Rs.1,00,000/- towards expenses to be paid by the petitioner herein within 15 days.

iv) On such payment, the Receiver shall take over the properties and remove the 4th respondent from possession or custody of the properties.

v) The Receiver shall open a separate bank account and maintain the account for receipts and expenses.

vi) The Receiver shall collect the rent and profit from the properties and to do all acts for the maintenance and improvement of the properties. From the 2nd month, the remuneration of the Receiver is at Rs.30,000/- to be taken from the account.

vii) If necessary, the Receiver has to take inventory with the help of the licensed valuer and to pay the fees to the valuer.

viii) The Receiver is ordered to file report and file the accounts in every 2 months before this court till the disposal of this case.

Dictated to the steno-typist, typed by him, corrected and pronounced by me in open court, on this the 22nd day of April, 2024.

Additional District Judge,
Virudhunagar.

Witness and Exhibits on the side of the Petitioner:

Nil.

Witness and Exhibits on the side of the Respondents:

Nil.

Additional District Judge,
Virudhunagar.

Additional District Court
Virudhunagar
IA No.8/2023 & IA No.9/2023
in Probate OP No.1/2023
COMMON ORDER
Dated: 22.04.2024
