

CRP(MD). No.267 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 21.01.2026

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THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

**CRP(MD). No.267 of 2023
and
CMP(MD) No.1237 of 2023**

Balasubramanian

... Petitioner

Vs

Karuppasamy

... Respondent

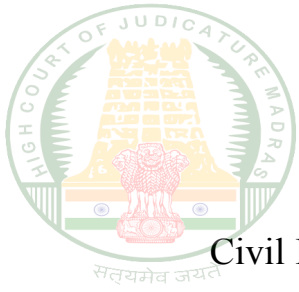
PRAYER :-Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order dated 22-12-2022 passed by the I Additional District Judge, Tirunelveli I.A.No.3 of 2022 in O.S.No. 194 of 2021.

For Petitioner : Mr.T.Lenin Kumar

For Respondent : Mr.S.Ganapathyraman

ORDER

The first defendant in O.S.No.194 of 2021 on the file of the learned I Additional District Judge, Tirunelveli, has filed the present



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Civil Revision Petition, challenging the order passed by the trial Court in

I.A.No.3 of 2022 in O.S.No.194 of 2021, dated 22.12.2022.

2.The respondent/plaintiff filed a suit in O.S.No.194 of 2021 before the I Additional District Court, Tirunelveli, for the relief of partition along with other reliefs. Pending suit, the respondent had filed an interlocutory application in I.A.No.3 of 2022 to mark the Will, dated 26.04.2021, as one of the evidences on his side. The Court below, vide order, dated 22.12.2022 had allowed the said application. Aggrieved by the same, the present Civil Revision Petition has been filed.

3.The learned counsel for the petitioner/first defendant would submit that the Will, which is sought to be marked, is not a complete Will, but only a part of the alleged testamentary document. According to the petitioner, a Will must be produced and proved in its entirety and an incomplete document, which does not contain the full contents of the testament, cannot be treated as a valid piece of evidence.



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4.It is further contended that permitting such an incomplete document to be marked would cause serious prejudice to the petitioner and would defeat the settled principles governing proof of testamentary documents. Hence, he prays for appropriate orders.

5.*Per contra*, the learned counsel for the respondent/plaintiff would contend that the document was sought to be marked only subject to proof and that the petitioner would have sufficient opportunity to challenge its genuineness during the course of trial.

6.This Court has considered the submissions and perused the materials available on record.

7.Admittedly, the respondent filed the suit for partition and pending such suit, he filed I.A.No.3 of 2022 to mark the Will, dated 26.04.2021, as one of the evidences on his side. The Court below, vide order, dated 22.12.2022 had allowed the said application, whereby, an unregistered Will, dated 26.04.2021, was directed to be marked and the same is under challenge herein.



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8.It is well settled that a Will, being a testamentary document, must be proved strictly in the manner known to law. When the document produced before the Court itself appears to be incomplete and does not disclose the entire contents of the alleged Will, the same cannot be permitted to be marked as an exhibit. In the case on hand, the document, which was directed to be marked, is an unregistered one and also an unstamped one. The trial Court, without properly examining this crucial aspect, has directed the marking of the incomplete Will.

9.In the considered view of this Court, such an order cannot be sustained in law. As held by the learned counsel for the petitioner, a Will must produce and prove in its entirety and an incomplete document, which does not contain the full contents of the testament, cannot be treated as a valid piece of evidence. Further, if an incomplete Will is permitted to be marked, then it will become a mockery to the entire institution of the suit. Therefore, the order passed by the trial Court directing the marking of the Will is liable to be set aside.



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10.In fine, the Civil Revision Petition stands allowed and the impugned order dated 22.12.2022 passed by the learned I Additional District Judge,Tirunelveli I.A.No.3 of 2022 in O.S.No.194 of 2021 is hereby set aside. No costs. Consequently, connected Miscellaneous Petition is closed.

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
Index : Yes / No
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21.01.2026

To

The I Additional District Judge,Tirunelveli.



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N.SENTHILKUMAR, J.

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