

**SUPREME COURT OF INDIA**

G.Gopal

Vs.

C.Baskar

C.A.No.6067 of 2008

(Tarun Chatterjee and Aftab Alam JJ.)

03.09.2008

**ORDER**

1. Delay condoned.
2. Leave granted.
3. This appeal is directed against the judgment and order dated 31st of July, 2006 passed by the Division Bench of the High Court of Madras in OSA NO.219 of 2006 by which the order of the grant of revocation of probate passed by the learned Single Judge of the original side of the High Court in Application No.4122 of 2005 in T.O.S. NO.32 of 1999 was confirmed.
4. We have heard Mr.Thiayarajan, learned counsel appearing on behalf of the appellant and Mrs. R.Rajani, learned counsel appearing on behalf of the respondents. We have also examined the judgment under appeal as well as the materials on record. The only question that was agitated before us by Mr.Thiayarajan, learned counsel appearing for the appellant challenging the judgment of the High Court revoking the probate granted in respect of the Will executed by the testator, was that the respondents having no caveatable interest in the estate of the deceased, the application for revocation filed by them could not be allowed. We are unable to accept these submissions made by Mr.Thiayarajan, learned counsel appearing on behalf of the appellant only for the simple reason that admittedly the respondents were grand children of the testator and they have claimed the estate of the deceased on the basis of a settlement deed executed by the testator himself which admittedly was revoked by the testator. That being the position, we must hold that the respondents had caveatable interest in the estate of the testator and, therefore, they are entitled to be served before the final order is passed. It is well settled that if a person who has even a slight interest in the estate of the testator is entitled to file caveat and contest the grant of probate of the will of the testator.
5. For the reasons aforesaid, we do not find any ground to interfere with the impugned order of the High Court. Mr.Thiayarajan, learned counsel appearing for the appellant submits, on instruction, that the present respondents shall be made parties in the proceeding for grant of

probate within a fortnight from this date. If such an application of impleadment is filed, it is needless to say that the same shall stand allowed and, in that case, the probate proceedings as well as the suit being Suit No.772 of 2005 filed in the original side of the Madras High Court shall be clubbed together and disposed of at an early date preferably within four months from the date of communication of this order.

6. With the above direction, the appeal is disposed of. There shall be no order as to costs.