



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20-07-2026

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THE HONOURABLE MR JUSTICE ABDUL QUDDHOSE

CRP No. 3219 of 2025

and

CMP No. 17855 of 2025

1. Thambi Devendran

Petitioner(s)

Vs

1. Rajadurai

Respondent(s)

PRAYER

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order passed in IA No.368 of 2023 in OS No.25 of 2019 dated 08.11.2024 on the file of District Munsif Court, Mannargudi and allow the CRP.

For Petitioner(s): Mr.M. Thamizhavel

For Respondent(s): Mr.K. Pragadeesh Kumar

ORDER

This Civil Revision Petition has been filed, challenging the impugned order dated 08.11.2024 passed by the District Munsif Court, Mannargudi, in I.A. No. 368 of 2023 in O.S. No. 25 of 2019.

2. The petitioner is the plaintiff in the aforesaid suit and the respondent is the defendant. The suit has been filed for permanent injunction to restrain the



respondent/defendant from interfering with the petitioner's peaceful possession and enjoyment of suit schedule property.

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3. During the pendency of the suit, I.A. No. 368 of 2023 was filed by the respondent/defendant, seeking for the appointment of an Advocate Commissioner for the purpose of getting a report from an expert with regard to the Will dated 22.03.2016, which is relied upon by the petitioner/plaintiff for the purpose of establishing the petitioner's/plaintiff's ownership of the suit property. The respondent disputes the said Will and therefore, he has filed an application under Section 45 of the Indian Evidence Act for the purpose of getting a report from an expert with regard to the genuineness of the aforesaid Will.

4. The Trial Court, under the impugned order dated 08.11.2024, allowed the application filed by the respondent in I.A. No. 368 of 2023 by appointing an Advocate Commissioner as prayed for in the said application. Aggrieved by the same, the petitioner, who is the plaintiff in the suit, filed this Civil Revision Petition.

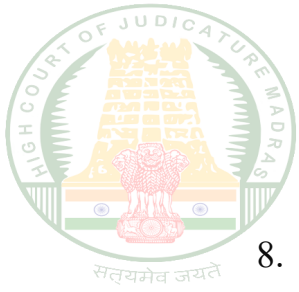
5. The learned counsel for the petitioner would submit that, erroneously, the impugned order has been passed. According to him, the Will through which the respondent/defendant claims ownership of the suit schedule property is a bogus Will. Therefore, he would submit that the Trial Court ought not have



allowed the application filed by the respondent/defendant, seeking to send the Will executed in favour of the petitioner to an expert with the assistance of an Advocate Commissioner under Section 45 of the Indian Evidence Act.

6. The learned counsel for the respondent/defendant would now submit, on instructions, that the respondent/defendant is also willing to send the Will dated 10.02.1994, which is relied upon by the respondent/defendant for the purpose of establishing ownership of the suit schedule property, to an expert under Section 45 of the Indian Evidence Act, along with the Will dated 22.03.2016, which is relied upon by the petitioner/plaintiff to establish the petitioner/plaintiff's ownership for the purpose of ascertaining the truth about the respective Wills.

7. This Court is not expressing any opinion on the merits of the respective contentions. No prejudice will be caused to any of the parties if both the disputed Wills, namely, the Will dated 10.02.1994 and the Will dated 22.03.2016, are sent to an expert with the assistance of an Advocate Commissioner under Section 45 of the Indian Evidence Act for the purpose of getting a report with regard to the genuineness of the signature found in the said documents. However, both the parties will have to provide contemporaneous documents of the executant of the respective Wills to enable the expert to submit a report in accordance with Section 45 of the Indian Evidence Act.

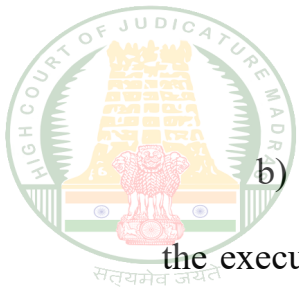


8. In the interest of justice, this Court deems it fit to send both the disputed Wills, namely, the Will dated 10.02.1994 and the Will dated 22.03.2016, to the expert under Section 45 of the Indian Evidence Act for the purpose of obtaining reports from the said expert about the genuineness of the Wills.

9. As observed earlier, the learned counsel for the respondent/defendant has also stated no objection for the Will dated 10.02.1994, which is relied upon by the respondent/defendant for the purpose of establishing ownership of the suit schedule property, to the expert for the purpose of obtaining a report with regard to the genuineness of the signature found in the Will dated 10.02.1994.

10. Since both the parties have consented for getting a report from an expert under Section 45 of the Indian Evidence Act, this Civil Revision Petition is disposed of by issuing the following directions:

a) The Advocate Commissioner, appointed by the District Munsif Court, Mannargudi, in I.A. No. 368 of 2023 in O.S. No. 25 of 2019, shall obtain the expert report from a Forensic Laboratory with regard to the genuineness of the Will dated 22.03.2016 and the Will dated 10.02.1994 in respect of the signatures found therein;

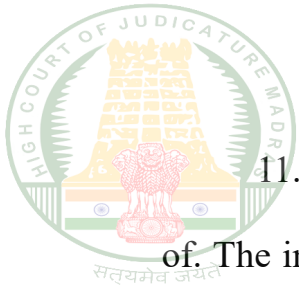


b) The respective parties shall produce contemporaneous documents of the executants to the respective Wills to enable the Advocate Commissioner to submit the same before the expert for the purpose of obtaining report with regard to the genuineness of the respective Wills as per the provisions of Section 45 of the Indian Evidence Act. The parties are directed to submit contemporaneous documents as indicated supra to the Advocate Commissioner within a period of fifteen days from the date of receipt of a copy of this order;

c) The Advocate Commissioner, appointed by the Trial Court under the impugned order, shall place all relevant documents before the appropriate Forensic Laboratory and obtain a report from the said Forensic Laboratory with regard to the genuineness of the respective Wills, namely, the Will dated 10.02.1994 and the Will dated 22.03.2016, in respect of the signatures found therein;

d) The Advocate Commissioner shall follow up with the Forensic Laboratory and obtain the expert report as expeditiously as possible;

e) The Trial Court, on receipt of the expert report as indicated supra, shall proceed further with the trial and dispose of the suit as expeditiously as possible, preferably within a period of six months from the date of receipt of the expert report from the Forensic Laboratory, with regard to the genuineness of the signature of the executant found in the respective Wills, namely, the Will dated 10.02.1994 and 22.03.2016.

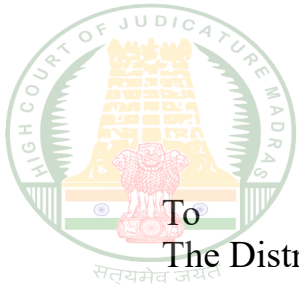


11. With the aforesaid directions, the Civil Revision Petition is disposed of. The interim stay granted earlier by this Court in this Civil Revision Petition stands vacated, and the Trial Court is directed to follow the aforesaid directions.

No costs. Consequently, connected miscellaneous petition is closed.

20-07-2026

Index: Yes/No
Speaking/Non-speaking order
Internet: Yes
Neutral Citation: Yes/No
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To
The District Munsif Court, Mannargudi.

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ABDUL QUDDHOSE J.

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