

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2015

CORAM:

THE HON'BLE **MS. JUSTICE R.MALA**

C.R.P.(PD).Nos.1201 & 1202 of 2015

and

M.P.No.1 of 2015

C.R.P.(PD).No.1201 of 2015

Kousalya  
W/o.Late Srinivasan

.. Petitioner/Petitioner/Plaintiff

Vs.

Rangasamy Reddy (died)

1.Balakrishnan

2.Babu

3.Rajendran

.. Respondents 1 to 3/Respondents 2 to 4/  
Defendants 2 to 4

**Prayer:**

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order dated 08.07.2014 made in I.A.No.414 of 2014 in O.S.No.344 of 2002 on the file of the Subordinate Judge, Vellore.

C.R.P.(PD).No.1202 of 2015

Kousalya  
W/o.Late Srinivasan

.. Petitioner/Petitioner/Plaintiff

Vs.

Rangasamy Reddy (died)

1.Balakrishnan

2.Babu

3.Rajendran

.. Respondents 1 to 3/Respondents 2 to 4/  
Defendants 2 to 4

**Prayer:**

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order dated 08.07.2014 made in I.A.No.415 of 2014 in O.S.No.344 of 2002 on the file of the Subordinate Judge, Vellore.

For Petitioner  
in both CRP's : Mr.S.William

For Respondents  
in both CRP's : Mr.G.Vinoth Kumar,  
for R1 to R3

**COMMON ORDER**

These Civil Revision Petitions have been filed challenging the impugned orders dated 08.07.2014 made in I.A.No.414 of 2014 and I.A.No.415 of 2014 in O.S.No.344 of 2002, wherein the application filed to reopen the suit and the application filed to send the document for expert opinion came to be dismissed.

2. The learned counsel appearing for the petitioner would submit that the petitioner herein as plaintiff had filed the suit in O.S.No.344 of 2002 for setting aside the decree and judgment dated 26.10.1988 made in O.S.No.247 of 1981 on the file of the Subordinate Court, Vellore, which has been filed seeking the relief of partition and separate possession of 3/10 share in the property. Subsequently, the suit in O.S.No.247 of 1981 came to be dismissed as settled out of Court. However, the revision petitioner/plaintiff has not made any endorsement to that effect and the signature made therein does not belong to the revision petitioner. Hence, the revision petitioner/plaintiff was constrained to file the present suit. In order to prove the same, the document had to be sent for an expert opinion. Hence, the revision

petitioner/plaintiff had filed applications in I.A.Nos.414 and 415 of 2014 in O.S.No.344 of 2002, to reopen the suit and to send the document for expert opinion respectively. Further, since the petitioner was working as Spinner in Khadi and Village Industries, the acquittance register of the year 1988 is available to compare the disputed signature with the admitted signature during the contemporary period. However, the Trial Court without considering those aspects had dismissed the said applications and as against the same, the present Civil Revision Petitions have been preferred.

3. Resisting the same, the learned counsel appearing for the respondents would submit that the original plaint in O.S.No.247 of 1981 is not available and hence, he prayed for dismissal of these Civil Revision Petitions.

4. Considered the rival submissions made by both sides and perused the typed set of papers along with the report received from the concerned Court which would state that the original plaint in O.S.No.247 of 1981 is available.

5. It is also pertinent to note that the revision petitioner/plaintiff

had filed the application under Rule 76 of the Civil Rules of Practice to send the documents for comparing the disputed signature with the admitted signature in the acquittance register pertaining to the contemporary period, so as to facilitate the handwriting expert to compare with the disputed signature of the plaintiff in O.S.No.247 of 1981.

6. In these circumstances, I am of the view that in order to do substantial justice and to give an opportunity to the plaintiff to prove that the endorsement made in O.S.No.247 of 1981 is a forged one, the impugned orders passed by the Trial Court is hereby set aside and these Civil Revision Petitions are allowed.

7. The learned Subordinate Judge, Vellore is directed to number the application filed under Rule 76 of the Civil Rules of Practice and pass appropriate orders in accordance with law, after following due procedure and appointing a Commissioner, as mandated under Order 26 Rule 10-A of CPC.

8. The learned Subordinate Judge, Vellore is further directed to send the document for comparison and get a report within a period of

one month from the date of receipt of a copy of this order and dispose of the main suit within a period of three months thereafter.

9. In fine, these Civil Revision Petitions are allowed. Consequently, connected miscellaneous petition is closed. No costs.

18.12.2015

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To

The learned Subordinate Judge,  
Vellore.

**R.MALA, J.**

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