

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **18.11.2016**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

C.R.P.(P.D.) No.3557 of 2016 and
CMP No.18065 of 2016

Nataraj

...Petitioner

versus

1.Saraswathi
2.Nachammal
3.Rukmani

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the order and decretal order in I.A.No.1643 of 2011 in O.S.No.130 of 2006 on the file of Principal Sub-Court, Tiruppur dated 24.09.2016.

For Petitioner : Mr.D.J.Venkatesan

ORDER

The first respondent filed a suit for partition in O.S.No.130 of 2006. The petitioner was shown as third defendant in the suit.

2. The petitioner contested the suit by filing written statement. Before the Trial Court, the petitioner filed an application in I.A.No.1643

of 2011 to compare the Left Thumb Impression contained in the notice sent to the respondents 1 and 2. The petitioner filed the said application on account of the denial of the receipt of notice by the respondents 1 and 2.

3. The learned Trial Judge dismissed the application on the ground that it is a matter of evidence.

4. The petitioner wanted to prove the factum of issuing notice to the respondents 1 and 2. Nothing prevented the petitioner from examining the counsel, who issued the notice. There is no question of comparing the Thumb Impression in a suit for partition. The learned Trial Judge considered the background facts and rightly dismissed the application. I do not find any error or illegality in the order warranting interference by exercising the revisional jurisdiction under Article 227 of the Constitution of India.

5. The petitioner is given liberty to examine the Advocate, who issued notice in respect of which, the petitioner filed I.A.No.1643 of 2011. In case, any such application is filed, the same shall be considered and disposed of by the learned Trial Judge, taking into account the

defence taken by the petitioner in the written statement.

6. The Civil Revision Petition is disposed of with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

18.11.2016

Index:Yes/No
svki

To

The Principal Sub-Court,
Tiruppur

K.K.SASIDHARAN, J.

(svki)

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