

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.12.2016

C O R A M

THE HONOURABLE Mrs.JUSTICE PUSHPA SATHYANARAYANA

C.R.P.P.D.No.4008 of 2016
and C.M.P.No.20254 of 2016

1. Poongodi
2. Minor Tharani
3. Minor Depak
Rep by next friend / guardian mother
Poongodi .. Petitioners

-Vs.-

1. Chellammal
2. V.Naveen .. Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order dated 23.11.2015 in I.A.No.711 of 2015 in O.S.No.120 of 2014 on the file of the Sub Court, Perundurai and to set aside the same.

For petitioners ... Mr.A.K.Kumarasamy for
Mr.S.Kaithamalai Kumaran

O R D E R

The defendants in a suit for partition has filed the application in I.A.No.711 of 2015 in O.S.No.120 of 2014 under Section 75 of the Evidence

Act to send for the documents as mentioned in the petition for comparison.

2. The said petition was dismissed by the trial Court as premature. The plaintiffs had relied on Will dated 14.01.2009. Admittedly, the trial has not commenced and the original Will has not yet been marked. In the meanwhile, the defendants have filed the application to summon the Finger Print Register from the Perundurai Sub Registrar Office in Register No.5004 of 2006.

3. When the plaintiffs themselves have not filed the Will, which has to be compared with the document that may be summoned from the Sub Registrar Office, the learned trial Judge has rightly dismissed the application as premature.

4. The learned Senior Counsel appearing for the petitioners submitted that it is only by way of abundant caution, the petitioners have filed the application to send for the documents for comparison.

5. As the order of the trial Court is correct in dismissing the application as premature, this Court is not inclined to interfere with. However, it is open to the revision petitioners / defendants to take out a similar application at the appropriate stage.

6. In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

22.12.2016

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To

The Sub Court, Perundurai

PUSHPA SATHYANARAYANA.J

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