

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.457 of 2015
& M.P.No.1 of 2015

1.Vidivelli
2.Ilampirai
3.Bhuvanalogini
4.Chandrodhayam
5.Yogaprakash

.. Petitioners

Vs.

A.Pannerselvam
A.Rajammal (Died)

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order dated 28.08.2014 made in I.A.No.267 of 2012 in O.S.No.281 of 2008 on the file of the District Munsif Cum Judicial Magistrate Court, Vedharanyam, Nagapattinam District.

For Petitioners : Mr.C.Prabakaran

For Respondents : Mr.S.Sathiamurthi

ORDER

This Civil Revision Petition is filed against the fair and decretal order dated 28.08.2014 made in I.A.No.267 of 2012 in O.S.No.281 of 2008 on the file of the District Munsif Cum Judicial Magistrate Court, Vedharanyam, Nagapattinam District.

2.The petitioners are the plaintiffs and respondents are the defendants in O.S.No.281 of 2008 on the file of the District Munsif Cum Judicial Magistrate Court, Vedharanyam, Nagapattinam District. The petitioners filed the said suit against the respondents for partition, claiming $\frac{1}{2}$ share in the suit property. They filed I.A.No.267 of 2012 under Section 45 of Indian Evidence Act, to get the opinion of the expert with regard to the age of the ink in the Will marked as Ex.B18 in respect of the signature of executor and witnesses. According to the petitioners, their grandfather Anjappan, respondents and petitioners' mother were living together as a joint family and by their joint assets, they purchased the suit property. Their mother died on 05.08.2004 and their grandfather died on 28.10.2007 intestate. In the circumstances, the petitioners are entitled to $\frac{1}{3}^{\text{rd}}$ share in the suit property and filed suit for their $\frac{1}{3}^{\text{rd}}$ share. The first respondent is claiming title based on the Will dated 20.05.2006, marked as Ex.B8, alleged to have been executed by their grandfather in favour of the first respondent. Their grandfather was 71 years and bedridden for 10 years. Hence, he could not have executed the Will in sound disposing mind. The Will is a forged one. In the circumstances, it is necessary to send the Will to the Forensic Department to find out the age of the ink in the signature of the executor and witnesses.

3.The respondents filed counter affidavit, denying all the averments and stated that suit property is a joint family property purchased by joint assets of petitioners' mother, respondents and their grandfather. Anjappan, the father of the first respondent and husband of the second respondent was hale and healthy and executed the Will in a sound disposing mind. The respondents have proved the Will by examining the witnesses. When the suit was posted for arguments, the petitioners have come out with the present application with an intention only to drag on the proceedings.

4.The learned Judge, considering the averments in the affidavit, counter affidavit and judgments relied on by the parties, dismissed the application, holding that there is no equipments and scientists available in India to find out the age of the ink in a document even though there is scientific method available to find out the age of the ink.

5.Against the said order of dismissal dated 28.08.2014 made in I.A.No.267 of 2012 in O.S.No.281 of 2008, the petitioners have come out with the present Civil Revision Petition.

6. Heard the learned counsel for the petitioners as well as the respondents and perused the materials available on record.

7. The learned counsel for the petitioners submits that there is a scientific method available to find out the age of the ink in the signature and this Court has also held that age of the ink can be ascertained by using scientific method. From the impugned order of the learned Judge, it is seen that this Court, in the judgment dated 18.07.2012, made in CrI.R.C.(MD)No.265 of 2012 has arrived at a conclusion that based on the report of the Assistant Director, Central Forensic Laboratory, Hyderabad, even though there is scientific method available in India, there is no necessary equipments and persons having skill available in India to find out the age of the ink. The learned counsel for the petitioners stated that there is scientific method available in the State to find out the age of the ink but has not produced any document to substantiate his case. On the other hand, in the order dated 18.07.2012 made in CrI.R.C.(MD)No.265 of 2012, this Court considered the report of the Assistant Director, Central Forensic Laboratory, Hyderabad and held that there is no equipment or person with skill in India to find out the age of the ink in the signature. The learned Judge considered all these facts and dismissed the application rightly. I hold that there is no irregularity or illegality warranting interference by this Court with the order of

the learned Judge dated 28.08.2014 made in I.A.No.267 of 2012 in O.S.No.281 of 2008.

8.In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

20.12.2017

Internet: Yes/No
Index: Yes/No
gsa

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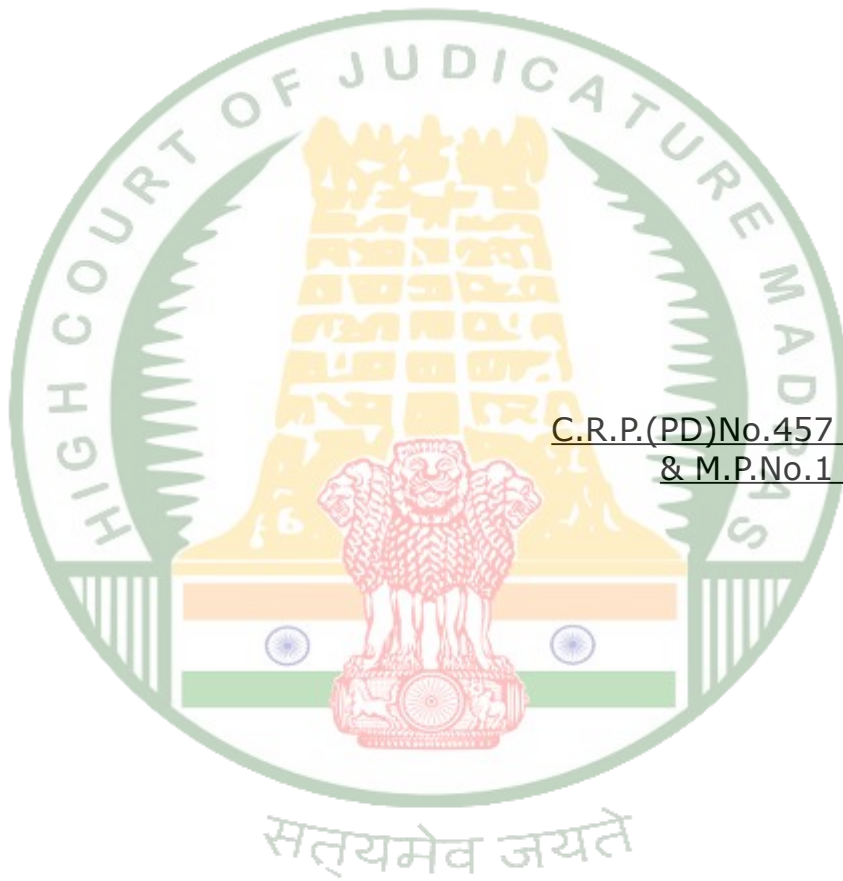
The District Munsif Cum Judicial Magistrate,
Vedharanyam,
Nagapattinam District.



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V.M.VELUMANI, J.

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