



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:19.06.2017

CORAM

WEB COPY

THE HONOURABLE **DR.JUSTICE G.JAYACHANDRAN**

C.R.P.(PD) (MD) Nos.1137, 1138 and 1139 of 2017
and

C.M.P (MD) Nos.5207, 5208 and 5209 of 2017

Ramanikanthammal (died)

1.N.Jothi @ Jothi Nageshwaran

2.N.Sukumar

3.N.Muralidharan

4.Chitra
Manorama (Died)

5.N.Janarthanam

6.Sujithra

7.N.Saravanakumar

8.N.Sivakumar

9.Ravi

10.Minor Dharmaraj,
Rep.by its Natural Guardian & Father
Mr.Ravi. .. Petitioners/Petitioners/ Plaintiffs
in all CRPs

Vs.

1.The State of Tamil Nadu,
Rep.by the District Collector,
Thiruchirapalli.

2.The Sub Registrar, Lalgudi

3.Gowri Ammal

<https://hcsa2001s.go.kn/mse/>

5.Ashok Kumar



6.Sujatha

7.Devadass

8.Vasanthi

9.Elangovan

10.M/s. Kothari Sugars & Chemicals Ltd.,
Rep.by its General Manager,
Kattoor, Sirumayangudi Majra,
Lalgudi Taluk, Trichy District.

11.Chinthamani .. Respondents/Respondents/Defendants
in all CRPs

Prayer in all CRPs : Petitions filed under Article 227 of the Constitution of India, to set aside the order dated 13.04.2017 passed in I.A.Nos.184, 185, 186 of 2016 in O.S.No.222 of 1987 repectively on the file of the I Additional Subordinate Court, Thiruchirappalli District.

For Petitioners in all CRPs : Mr.M.Velmurugan

For 4th Respondent in all CRPs : Ms.J.Anandhavalli

COMMON ORDER

The revision petitioners are plaintiffs in O.S.No.222 of 1987. They have also filed another suit in O.S.No.826 of 1987. Both suits are now pending trial before the I Additional Subordinate Court, Trichirappalli.

2.The litigation between the parties has chequered history. The revision petitioners have filed three interlocutory applications for the following reliefs:-

"a). To direct the Registrar, Sub Court, Trichy, to sent the Written Statement filed by the late Raja Chidambaram Reddiar in O.S.No.42 of 1983, on the file of the Sub Court, Trichy from the Record Section to this Hon'ble Court for Signature Comparison Expert Opinion.

b) To direct the 3rd to 7th Defendants to produce and submit the above said alleged original Will, dated 03.10.1986, before this Honourable Court for Signature Comparison Expert Opinion.

c) To refer this above documents viz., 1) Written Statement in O.S.No.42 of 1983, on the file of the Sub Court, Trichy, 2). Certified Copy of unnumbered Plaint, Sr.No.2372 of 1986, dated 25.08.1986 renumbered in OS.SR.No.382/2012, on the file of the Principal District



Munsif Court, Lalgudi, 3). Alleged Original Will, dated 04.10.1986, to obtain Signature Comparison Expert Opinion/ Report from the competent Authority to compare and to test the genuineness of the signature of late Raja Chidambaram Reddiar in the alleged will and to produce the Opinion / Report before this Court and also adduce evidence in respect of the same respectively."

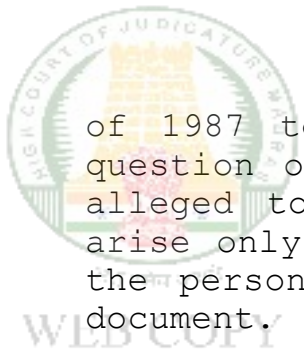
3.The Trial Court after considering the merits of the applications in the length of the counter filed by the respondents herein has dismissed those applications on the ground of inordinate delay on the part of the plaintiffs in seeking comparison of signature in the 30 year old documents and further held that Sections 90 and 90A of the Indian Evidence Act are applicable to this case.

4.The learned counsel for the revision petitioners contended that the finding of the Trial Court that Sections 90 and 90A of the Indian Evidence Act will apply is erroneous and it will apply only when a document comes from a proper custody. In this case, the alleged will dated 03.10.1986 is forged, created and concocted. After filing the suit, the mother of the present petitioners/plaintiff died and the revision petitioners as legal heirs of the plaintiff got impleaded as plaintiffs in the suit.

5.The counsel for the petitioners further contended that earlier when the Trial Court directed the 3rd defendant/3rd respondent herein to begin the case, the defendants moved this Court in C.R.P.No.2357/2003 and got stay of the order. Thereafter, this Court reversed the said order. Hence, there was no delay in filing the present applications.

6.The learned counsel for the respondents submitted that there is a specific direction by the High Court to the plaintiffs to commence the trial. But, without doing so, just to protract the proceedings, they taken out the present applications. The suit of the year 1987 has not come to an end due to the tactics adopted by the plaintiffs.

7.The Suit in O.S.No.222 of 1987 was filed for declaration that the alleged Will dated 03.10.1986 executed by the deceased Raja Chidambaram Reddiar is forged, fabricated and concocted one. It is now brought to the notice of this Court that the document sought to be compared so far not seen the light of the day. Another suit has been filed for partition by the very same plaintiffs, wherein, the plaintiffs have relied upon the said Will. Only when the Will is produced by the person who is in possession, the signature in the will can be compared with the original document for ascertaining the genuineness of the will. Since this Court has already directed the plaintiffs/revision petitioners who are the plaintiffs in O.S.No.222 of 1987 and 826



of 1987 to commence the trial by examining the witnesses, the question of testing the genuineness of the Will dated 03.10.1986 alleged to have been executed by Raja Chidambaram Reddiar will arise only when the said document is produced before the Court by the person who is in possession for the purpose of marking the document.

8.Once the document is produced before this Court, the revision petitioners can let in witnesses to speak about the said document. Thereafter, the revision petitioners are liberty to take out the application to compare the signature in the alleged will with that of signature in the admitted contemporaneous document. This Court has already directed the Trial Court to dispose of the suit on or before 31.06.2017. In view of the intervening factors, the time is extended till 31.12.2017.

9.This Court finds no illegality in the impugned orders except referring Section 90 and 90A of the Indian Evidence Act. Hence, the Civil Revision Petitions are dismissed. No costs. Consequently connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar

/True copy/

Sub Assistant Registrar

To

- 1.The I Additional Subordinate Court, Thiruchirappalli District.
- 2.The District Collector, Thiruchirappalli.
- 3.The Sub Registrar, Lalgudi.

+3ccs to Ms.J.Anandavalli, Advocate in SR.No.61331,61333, 60869

+3ccs to Mr.M.Velmurugan, Advocate in SR.No.60839 to 60841

mrn/rmi

AE/SKN/SAR1/04.07.2017/4P/9C

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