

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 09.04.2018

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

C.R.P.(PD)No.1267 of 2018
& C.M.P.No.6518 of 2018

Ranganayaki

.. Petitioner

Vs.

K.Parimala

... Respondent

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India praying to direct the III Additional District Court, Gobichettipalayam to number the unnumbered I.A.CFR.No.5875/2017 in O.S.No.24 of 2015 .

For Petitioner : Mr.N.Manokaran

ORDER

This Civil Revision Petition has been filed to direct the III Additional District Court, Gobichettipalayam to number the un-numbered I.A.CFR.No.5875/2017 in O.S.No.24 of 2015 .

2. The plaintiff in O.S.No.90 of 2013 on the file of the learned Subordinate Judge, Sathyamangalam, is the revision petitioner herein.

3. According to the petitioner, the petitioner herein had filed a suit in O.S.No.90 of 2013 seeking declaration and permanent injunction on the basis of a Will dated 24.06.2009 executed by her husband late S.P.Kandasamy. Similarly, the respondent has filed a suit in O.S.No.198 of 2014 on the file of the Principal District Court, Erode. Thereafter, it was transferred and re-numbered as O.S.No.1 of 2015 on the file of the III Additional District Court, Gobichettipalayam. Aggrieved by the said order, the petitioner has filed an application in IA CFR.No.5875 of 2017 to consider the petition either by taking specimen/sample directly by this Court from the admitted and disputed documents and send the same through registered post for comparison or appoint an advocate Commissioner to take signatures found in the admitted and disputed documents to hand over for comparison with the handwriting expert and to order the handwriting expert to compare the signature seen in the admitted and disputed documents corresponding to the signature of S.P.Shanmugam in Document Nos.4658 and 4733 of 2006 respectively as admitted and disputed documents and to give opinion and evidence. The Trial Court returned the application and the matter was adjourned by two weeks. The petitioner has to prove the disputed settlement deed dated 22.12.2006 by establishing the fact that one S.P.Shanmugam did not attest the said document, whereas the respondent has fabricated the said document.

4. The learned counsel for the petitioner would further submit that the said one S.P.Shanmugam was examined as P.W.4, who denied his signature found in the alleged settlement deed and he has produced a Release Deed dated 17.11.2006 along with his admitted signature for comparison. The learned counsel for the petitioner would further submit that the Trial Court has again and again returned the petition between 23.10.2017 and 23.02.2018 without ascertaining the actual dispute and the same needs expert opinion. Hence, the petitioner has filed the present civil revision petition before this Court.

5. Heard the learned counsel for the petitioner and also perused the material evidence available on record.

6. It is pertinent to note that the petitioner has to prove the disputed settlement deed dated 22.12.2006 by examining at least one of the attesting witnesses and already examined P.W.4 who is one of the attestors to the said settlement deed and during his evidence, he denied his signature found in the alleged settlement deed. At this juncture, there is no need to send for expert opinion and further expert opinion is not conclusive proof especially attestor denied the attestation of the settlement deed. Even assuming that signature

P.VELMURUGAN,J.

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is proved the same is not enough to prove the attestation. This Court finds that there is no irregularity or infirmity in the order passed by the trial Court.

7. In view of the above, this Civil Revision Petition is dismissed in the admission stage itself. No costs. Consequently, the connected Miscellaneous petition is closed.

09.04.2018

Index:Yes/No
Internet : yes/No
Speaking order / Non speaking order
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To

III Additional District Court,
Gobichettipalayam

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