

IN THE HIGH COURT OF JUDICATURE AT MADRAS

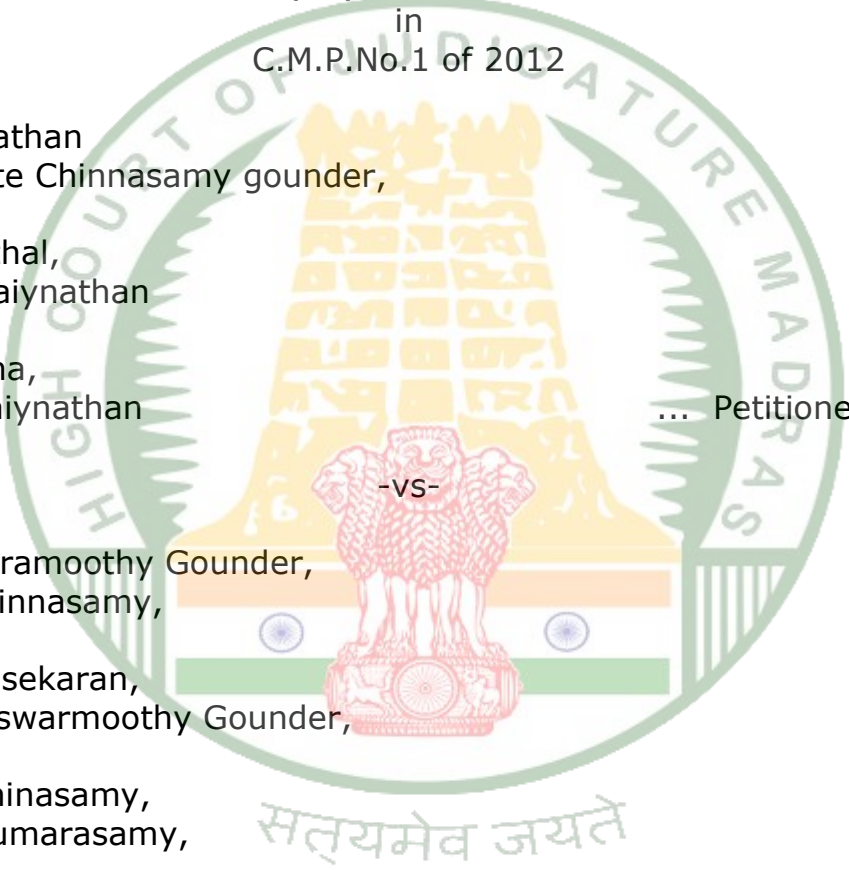
DATED :29.10.2018

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.(PD)No.1058 of 2012

in
C.M.P.No.1 of 2012

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- The seal of the High Court of Judicature at Madras is a circular emblem. It features a central yellow temple gopuram (tower) with a red lion capital on top. Below the gopuram is a red lion capital with a wheel (Chakras) on its base. The entire emblem is set against a green background with a white border. The words 'HIGH COURT OF JUDICATURE MADRAS' are written in a circular path around the emblem. At the bottom, the Sanskrit motto 'सत्यमेव जयते' (Satyameva Jayate) is inscribed.
1. Maiynathan
S/o Late Chinnasamy gounder,
 2. Deivathal,
W/o Maiynathan
 3. Kalpana,
D/o Maiynathan
- vs-
1. Easwaramoorthy Gounder,
S/o Chinnasamy,
 2. Dhanasekaran,
S/o Easwaramoorthy Gounder,
 3. K.Rathinasamy,
S/o Kumarasamy,
 4. S.Manonmani,
W/o Somasundaram,
 5. Kannammal,
W/o Narayansamy,
 6. Maragad Eswari,
W/o Dhanasekaran.
- ... Petitioners
- ... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, praying against the judgement and decree passed in I.A.No.1069 of 2011 in O.S.No.274 of 2006 dated 10.12.2011 on the file of District Munsif Court Kangayam at Erode District and allow the same.

For Petitioners	: Mr.S. Dhanasekaran
For Respondent	: Mr.S.Saravanan for RR1 &2
	: No appearance for RR3 to 5
	: Not ready in notice for R6
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ORDER

The above Civil Revision Petition is filed by the Plaintiffs in OS.No.274 of 2006, against the order dated, 10.12.2011 made in I.A.No.1069 of 2011 in O.S.No.274/2006, by the learned District Judge, Kangayam at Erode, dismissing the said application in IA.No.1069 of 2011, filed by the plaintiffs, seeking to send the signature of the Testator found in the Will, dated 14.09.1975 for comparison along with that of the Testator found in the two documents, dated 04.10.1941 and 10.02.1969 by a forensic expert.

2. This Court heard Mr.S. Dhanasekaran, the learned counsel for the petitioners and Mr.S.Saravanan, the learned counsel for the respondent.

3. It is seen that the revision petitioner had filed the above suit, seeking partition and separate possession of the suit properties. The suit had been filed in the year 2006 and the respondents 1 and 2 herein had filed a written statement, in which they have raised a plea that the Testator, C.Chinnasamy Gounder had executed a last Will dated 14.10.1975, bequeathing the

properties in favour of the first respondent herein and thereafter he died on 03.11.1977.

4. The said written statement had been signed on 29.12.2006 and along with the said written statement, a copy of the Will has also been filed with an endorsement that the original Will will be produced at the time of the trial.

5. It is also seen from the records that the respondents had examined DW.2 and DW.3 to prove the execution of the Will and it is thereafter that the revision petitioners have come forward with the said application, in which the impugned order was passed. The court below had dismissed the said application by the impugned order on the ground that the signature in the disputed document is sought to be compared with the documents of the year 1941 and 1969, by a forensic expert and they are not contemporaneous documents. It is also seen that the defendant has produced the Will in his examination in Chief as PW.2.

6. In these circumstances, when the plaintiffs/revision petitioners knew about the existence of the Will as early as in the month of December 2006, they have not taken any steps whatsoever to test the veracity of the said documents. I therefore

find no infirmity in the impugned order order passed by the learned District Judge, Kangayam in I.A.No.1069 of 2011 in O.S.No.274 of 2006 dated 10.12.2011. Consequently, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

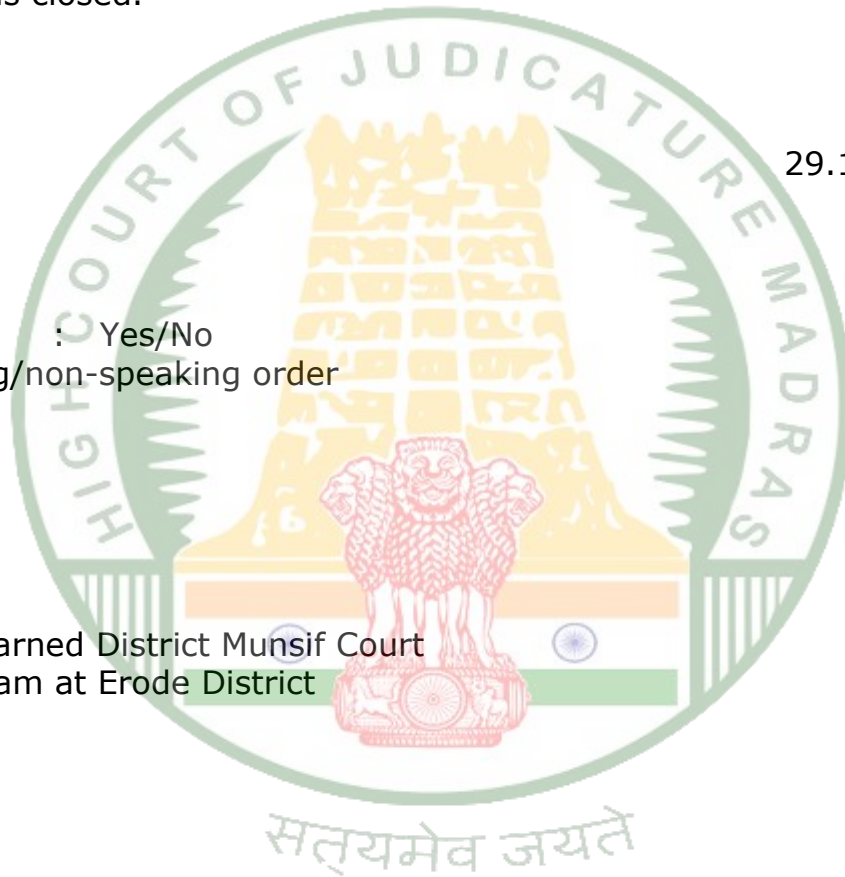
29.10.2018

Index : Yes/No
Speaking/non-speaking order

jrs

To

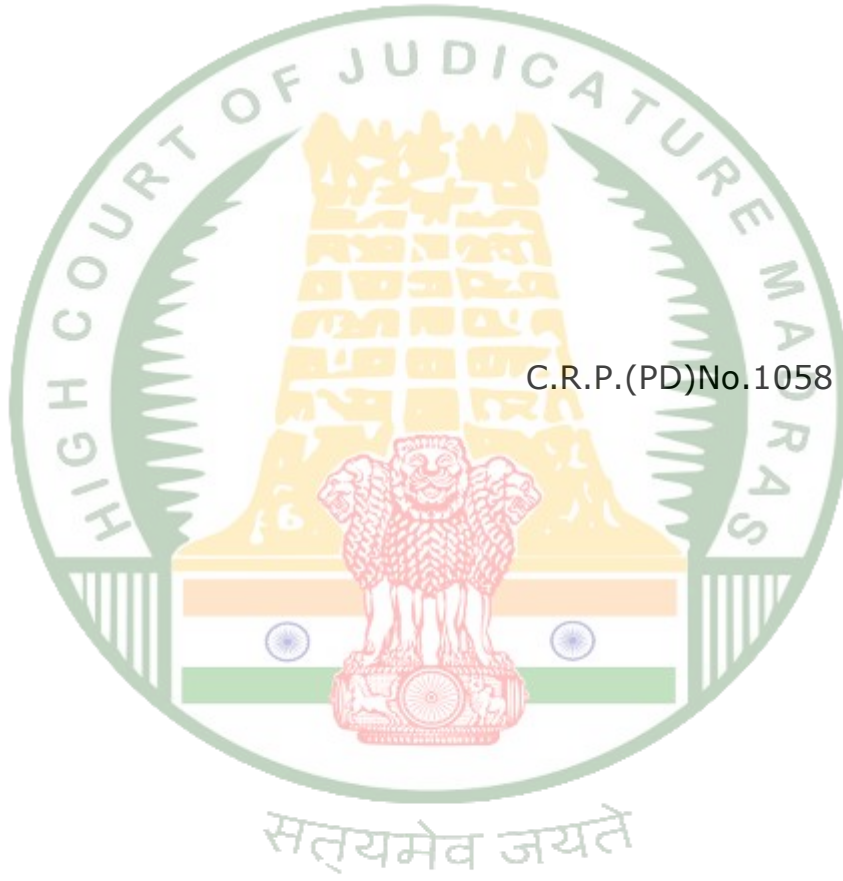
The Learned District Munsif Court
Kangayam at Erode District



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P.T.ASHA, J.

jrs



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