

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.03.2018

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CRP(PD).No.887 of 2018
and CMP.No.4856 of 2018

C.Pappathi @ Nagamani

.. Petitioner

Vs

N.Mani @ Manickam

.. Respondent

PRAYER

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 13.12.2017 made in IA.No.846 of 2017 in OS.No.126 of 2010 on the file of the Subordinate Court, Dharapuram.

For Petitioner : Mr.N.Ponraj

ORDER

The Civil Revision Petition is taken up for final disposal at the admission stage itself.

2. According to the revision petitioner, the revision petitioner has filed a suit in OS.No.126 of 2010 for partition against the respondent herein. In the aforesaid suit, the respondent / defendant has

marked unregistered will executed by petitioner's father in favour of the respondent / defendant. Therefore, the revision petitioner has filed an application IA.No.846 of 2017 to disprove the will in the aforesaid suit. The trial court dismissed the said application on the ground the revision petitioner has not furnished contemporary document to compare the disputed signature and alleged will. Challenging the aforesaid order, the revision petitioner has filed the present Civil Revision Petition before this Court.

3. The learned counsel for the revision petitioner would submit that the said alleged will executed by the respondent / defendant is denied by the petitioner. The petitioner being the plaintiff has filed the said suit for partition. Therefore, if the said application is allowed, no prejudice would be caused to the respondent.

4. At this stage of arguments, the learned counsel for the revision petitioner would submit that the court below has dismissed the said application by observing that contemporary document has not been filed by the revision petitioner. On instruction, the learned counsel for the revision petitioner would submit that now contemporary document is

available for comparing the disputed signature and requests this Court to grant opportunity to file an appropriate application before the court below.

5. On perusal of records, there is no error or illegality in the order passed by the court below. Therefore is no warrants to interfere with the order passed by the court below. However, if contemporary document is available, it is open to the revision petitioner to file an application before the court below and if it is satisfied, the court below shall consider the same in accordance with law.

6. The Civil Revision Petition is dismissed with above observations. Consequently, the connected miscellaneous petition is closed. No costs.

सत्यमेव जयते

15.03.2018

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Speaking/Non-Speaking order

Index :Yes/No

Internet:Yes/No

lok

D. KRISHNAKUMAR J.,

lok

To

The Subordinate Court,
Dharapuram.



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