

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 18.09.2018
CORAM
THE HONOURABLE MS. JUSTICE P.T.ASHA
C.R.P.No.2595 of 2009
and
M.P.No.1 of 2009

Senthilkumar Petitioner

Vs

1. R. Thiyagarajan
2. T. Parameswaran
3. Selvi
4. Indirani Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to against the fair and decretal order dated 17.06.2009 in I.A.No.861 of 2008 in O.S.No.1141 of 2004 on the file of the Principal District Munsif Court, Kallakurichi.

For Petitioner : D. Shivakumaran

For Respondents : Mr. R. Balasubramanian for R1 & R2
Not ready in notice for R3 and R4

O R D E R

The above Civil Revision Petition is filed challenging the order passed by the learned Principal District Munsif, Kallakurichi in I.A.No.861 of 2008 in O.S.No.1141 of 2004 in and by which the application filed by the revision petitioner to send the thumb impression of the testator in the Will dated 09.01.2004 for forensic examination was dismissed on the ground that the revision petitioner has not produced an admitted thumb impression of the testator. Aggrieved by this order the revision is filed.

2. Mr. D. Sivakumaran, the learned counsel for the petitioner would represent that in the written statement filed by the first respondent, they have mentioned that the testator Athayi Ammal had executed a registered Will dated 19.06.2000. This being a registered document, the thumb impression in this registered document can be used for comparing the signature in the disputed Will dated 09.01.2004. The learned Principal District Munsif, Kallakurichi has not considered the written statement and therefore, the order requires to be set aside. The counsel for the respondent would submit that the original Will put forward by the first respondent is deposited with a Bank.

4. The order of the learned Principal District Munsif, Kallakurichi is set aside and the Learned District Munsif, Kallkurichi shall direct the respondents to take steps to produce the Will dated 19.06.2000 executed by Athhayi Amal for the purpose of forensic examination alone and as soon as the examination is concluded the original Will shall be returned to the respondents. For this purpose, the Learned District Munsif, Kallakurichi shall issue summon to the Bank in which the respondent has deposited the Will dated 19.06.2000 to produce the same before the Court. The respondents who were directed to produce the name of the Bank has not done so. It is needless to state that if the respondents do not comply with the above order adverse inference will be drawn

against the respondents.

5. The Civil Revision Petition is allowed on the above lines. There shall be no order as to costs. Consequently connected miscellaneous petition is closed.

18.09.2018

Index: Yes/No

Internet: Yes/No

jrs/mbi

Issue the order copy on 22.10.2018

To

The Principal District Munsif Court, Kallakurichi.

P.T. ASHA. J,

(jrs/mbi)

C.R.P. (PD)No.2595 of 2009

Dated: 18.09.2018