

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2018

CORAM:

The HONOURABLE MS. JUSTICE V.M.VELUMANI

C.R.P.(NPD)No.617 of 2009
and C.R.P.(PD)No.1926 of 2010
and M.P.Nos.1,1 of 2009 and 2010

Kaliammal

.. Petitioner

Vs.

1.Natarajan

2.Chinnaiyan @ Shanmugam

.. Respondents

Prayer in C.R.P.No.617 of 2009:Civil Revision Petition filed under Section 115 of C.P.C., against the fair and decretal order dated 03.12.2008 made in I.A.No.154 of 2008 in A.S.No.65 of 2006 on the file of the Subordinate Court, Maduranthakam.

Prayer in C.R.P.No.1926 of 2010:Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order dated 03.02.2010 made in I.A.No.142 of 2009 in A.S.No.52 of

2006 on the file of the Subordinate Court, Maduranthakam.

In C.R.P.No.617 of 2009:

For Petitioner : Mr.T.Sezhian

For Respondents : Not ready in notice

In C.R.P.No.1926 of 2010:

For Petitioner : Mr.T.Sezhian

For R1 : Mr.M.S.Subramanian

For R2 : Not ready in notice

COMMON ORDER

C.R.P.No.617 of 2009 is filed against the fair and decretal order dated 03.12.2008 made in I.A.No.154 of 2008 in A.S.No.65 of 2006 on the file of the Subordinate Court, Maduranthakam.

C.R.P.No.1926 of 2010 is filed against the fair and decretal order dated 03.02.2010 made in I.A.No.142 of 2009 in A.S.No.52 of 2006 on the file of the Subordinate Court, Maduranthakam.

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2. Heard the learned counsel for the petitioner as well as the first respondent and perused the materials available on record.

3. The petitioner is appellant in A.S.Nos.52 and 65 of 2006, plaintiff in O.S.No.280 of 1999 and defendant in O.S.No.263 of 1999. The respondents are the defendants in O.S.No.280 of 1999 and first respondent is the plaintiff in O.S.No.263 of 1999. The suit filed by the first respondent in O.S.No.263 of 1999 for declaration and injunction in respect of the suit property was decreed. The suit filed by the petitioner in O.S.No.280 of 1999 for declaration and injunction was dismissed.

4. Against the judgment and decree dated 11.02.2005 made in O.S.Nos.263 and 280 of 1999, the petitioner filed two appeals A.S.Nos.65 and 52 of 2006.

5. Pending appeals, the petitioner filed I.A.Nos.154 of 2008 in A.S.No.65 of 2006 and I.A.No.142 of 2009 in A.S.No.52 of 2006 under Section 45 of the Indian Evidence Act for obtaining opinion of the handwriting expert by comparing signature of the first respondent in Ex.A16/koor chit, dated 13.07.1994 with the other documents mentioned therein. According to the petitioner, the trial Court dismissed the suit holding that the petitioner failed to prove the

signature in Ex.A16. In the circumstances, it is necessary to get opinion of the handwriting expert. The respondents filed counter affidavit and opposed the said applications.

6. The learned Appellate Authority considering the fact that while deciding the suits O.S.Nos.263 and 280 of 1999, the trial Court did not reject Ex.A16 based on which the petitioner claims on the ground that signature in Ex.A16 is not proved. On the other hand, Ex.A16 was rejected on the ground that the same was unstamped and unregistered and the same cannot be relied upon even for collateral purpose. In the circumstances, comparison of signature is unnecessary and dismissed the applications.

7. Against the said order of dismissal dated 03.12.2008 made in I.A.No.154 of 2008 in A.S.No.65 of 2006, the petitioner filed C.R.P.No.617 of 2009. Against the order of dismissal dated 03.02.2010 made in I.A.No.142 of 2009 in A.S.No.52 of 2006, the petitioner filed C.R.P.No.1926 of 2010.

8. The reason given by the petitioner for obtaining opinion from handwriting expert with regard to the signature of the first respondent

in Ex.A16 is contrary to the reasoning given by the trial Court. From the impugned order of the learned Appellate Authority, it is seen that the trial Court rejected Ex.A16 in entirety on the ground that it is unstamped and unregistered document. The learned Appellate Authority dismissed both the applications on the ground that Ex.A16 was rejected as inadmissible in evidence. There is no illegality or irregularity warranting interference by this Court with the order of the learned Appellate Authority dated 03.12.2008 and 03.02.2010.

9. In the result, the Civil Revision Petitions are dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

01.02.2018

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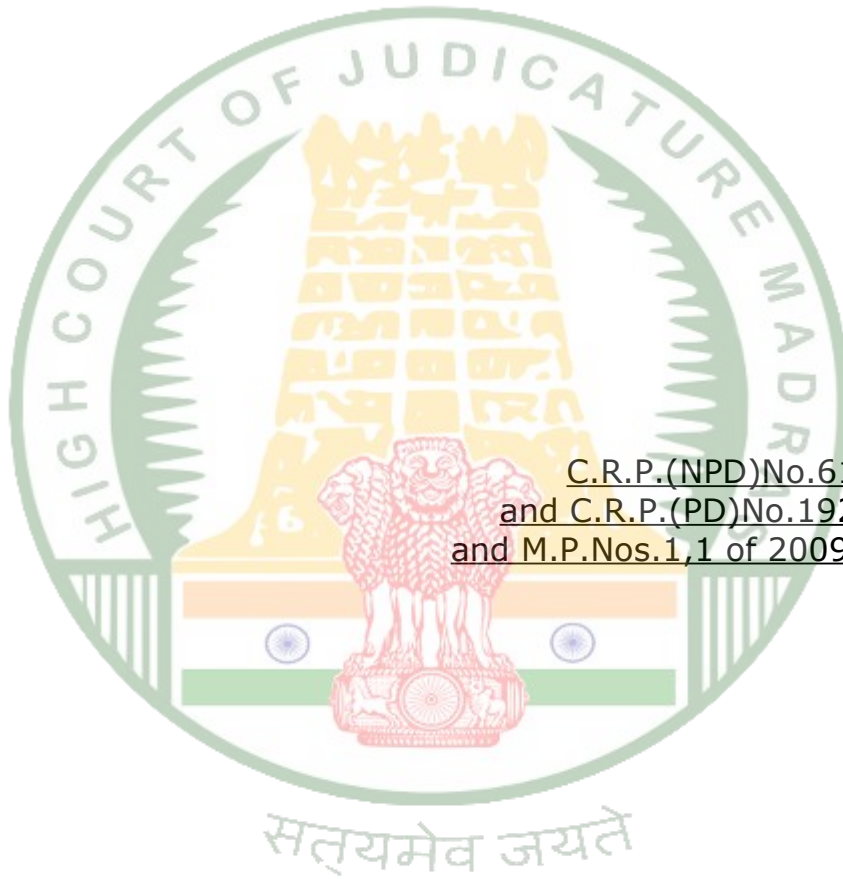
To

The Subordinate Judge, Maduranthakam.

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V.M.VELUMANI,J.

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