



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.08.2018

CORAM :

WEB COPY

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

CRP (MD) No.1865 of 2016 (PD)
and
CMP (MD) No.8942 of 2016

1. Syed Vavu
2. Amina Beevi
3. Rasool Bevi
4. haji. Alla Pitchai

... Petitioners

Vs.

1. Sathaiah
2. The Sub Registrar,
Sub Registrar Office,
Muthukulathur,
Ramanthapuram District.

... Respondents

Prayer : This Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order passed in I.A.no.295 of 2016 in O.S.No.53 of 2015 on the file of the District Munsif, Mudukulathur, dated 11.08.2016.

For Petitioners : Mr.K.Kumaravel
For Respondents : Mr.M.Murugan,
Government Advocate for R2
No appearance for R1

ORDER

The plaintiffs are the revision petitioners herein. O.S.No.53 of 2015 was filed by them before the District Munsif Court Mudhukulathur seeking the relief of declaration and permanent injunction and also for declaring that the document dated 04.07.1995 was a fabricated one. After the commencement of the trial in which the third plaintiff who was examined as P.W.1 denied genuineness of the said document, I.A.No.295 of 2016 was filed for sending the said document for expert opinion. No counter was filed opposing the prayer made in the I.A. But, the court below dismissed the I.A. by order dated 11.08.2016. This is questioned in this civil revision petition.

<https://hcservices.ecourts.gov.in/hcservices/>

2. Heard the learned counsel for the revision petitioners and

the learned Government Advocate for the second respondent.

3.The learned counsel for the petitioner placing reliance on the decision of this Court reported in **(2010) 3 MLJ 65 (S.Chinnathai vs. K.C.Chinnadurai)** contended that in as much as the very execution of the document in question has been denied, it is necessary to refer the document in question for expert opinion. In the said decision, the procedure that must be followed has been set out in extenso. The reason that has been given in the impugned order is that the revision petitioners have asked only for comparison of thumb impression and not the signature appearing in the document. This reason is not correct. Thumb impression would carry greater credibility and conviction. Thumb impression can never be forged.

4.Therefore, this Court is of the view that the court below ought to have allowed IA.No.295 of 2016 filed by the revision petitioners herein. In this view of the matter, the order impugned in this Civil Revision Petition is set aside. This revision petition is allowed. The court below shall issue appropriate orders by following the guidelines laid down in the decision reported in **(2010) 3 MLJ 65 (S.Chinnathai vs. K.C.Chinnadurai)** when the document in question is referred for expert opinion. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar (CS-II)

To

The District Munsif, Mudukulathur.

Copy To:-

The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+ 1 CC TO Mr.K.KUMARAVEL, ADVOCATE IN SR No. 77902

SKM

TE/JM/RSK/SAR-2 : 18/09/2018 : 2P/5C