



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.08.2018

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CRP (MD)Nos.2049 & 2050 of 2016 (PD)
and
CMP(MD)No.9632 of 2016

Jayaraj Singh

... Petitioner in both cases

Vs.

1.Prabath Singh
2.Elsilin Brintha

... Respondents in both cases

Common Prayer : This Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order and decretal order passed in I.A.Nos.552 & 553 of 2013 in O.S.No.73 of 2007 dated 12.08.2016 on the file of the Sub Ordinate Judge, Padmanabhapuram.

For Petitioner
in both cases : Mr.C.Godwin

For Respondents
in both cases : Mrs.P.Jessy Jeeva Priya
for G.Aravinthan

ORDER

The revision petitioner is the second plaintiff in O.S.No.73 of 2007 on the file of the Sub Court, Padmanabhapuram. The case of the plaintiff is founded on the registered will dated 09.10.1997 executed by the father of the revision petitioner namely, Sundaram. This stand of the revision petitioner is denied by the defendants who have filed a written statement contending that the will is a fabricated one. Therefore, onus is cast on the plaintiffs to establish the genuineness of the will. Therefore, the revision petitioner filed I.A.No.57 of 2008 before the Sub Court for comparison of the signatures as well as thumb impression of the said Sundaram through an expert. In fact, the petition was ordered and documents were sent through an Advocate to the Regional Forensic Laboratory, Madurai. The Madurai Forensic Laboratory compared the signatures and sent a report to the court concerned. But, thumb impression could not be verified because the relevant facility is



available only at Tamil Nadu Fingerprint Bureau, Chennai. The court below had not sent the document for verification of the thumb impression. Therefore, the revision petitioner filed I.A.No.552 of 2013 and 553 of 2013 for sending the documents to the Tamil Nadu Fingerprint Bureau, Santhom, Chennai through an Advocate Commissioner for comparison of the same. Even though the defendants did not seriously question the said applications, the court below chose to dismiss the applications. The said order is assailed in this Civil Revision Petition.

2.Heard the learned counsel on either side.

3.This Court is of the view that the fact the case is 10 years old cannot be a ground for denying the prayer made by the revision petitioner. The stand of the court below that it can do the comparison itself under Section 73 of the Evidence Act is also unacceptable. The Hon'ble Supreme Court as well as the High Court of Madras had held in several cases that this task of comparison of signatures could not be undertaken by the court. In any event, thumb impression cannot be compared by any judge. No court is having the competence to do verification of thumb impression.

4.In this case, contending that the prayer of the revision petitioner was already accepted by the court below and that the documents were sent to the wrong institution cannot be a ground to deny the relief which he was originally granted. Looked at from any angle, the orders impugned in these Civil Revision Petition cannot be sustained. They are accordingly set aside.

5.These Civil Revision Petitions are allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar(CS-II)

To
The Sub Ordinate Judge,
Padmanabhapuram.

+1CC TO MR.C.GODWIN, ADVOCATE IN SR.NO.77827.
+1CC TO MR.G.ARAVINTHAN, ADVOCATE IN SR.NO.77831.
SKM
DS RSK SAR-2 01.10.2018 2P/4C

CRP (MD)Nos.2049 & 2050 of 2016 (PD)
and
CMP (MD)No.9632 of 2016
09.08.2018