



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.08.2018

CORAM:

THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN

WEB COPY

C.R.P. (MD) .Nos.2492 and 2493 of 2016andC.M.P. (MD) .Nos.11725 and 11729 of 2016**C.R.P. (MD) .No.2492/2016:**S.Mudiappan ... Revision Petitioner/1st Defendant

-vs-

1.S.Sebasthiammal ... 1st respondent/3rd defendant
2.S.Arockianathan ... 2nd respondent/2nd defendant
3.S.Annammal ... 3rd respondent/Plaintiff

Prayer: Civil Revision Petition under Article 227 of the Constitution of India as against the fair and decreetal order dated 14.10.2015 passed in I.A.No.274 of 2015 in O.S.No.144 of 2013 on the file of the III Additional District Judge, Tiruchirappalli.

C.R.P. (MD) .No.2493/2016S.Mudiappan ... Petitioner/1st Defendant

-vs-

1.S.Annammal ... 1st respondent/Plaintiff
2.S.Arockianathan ... 2nd respondent/2nd defendant
3.S.Sebasthiammal ... 3rd respondent/3rd defendant

Prayer: Civil Revision Petition under Article 227 of the Constitution of India as against the fair and decreetal order dated 14.10.2015 passed in I.A.No.291 of 2015 in O.S.No.144 of 2013 on the file of the III Additional District Judge, Tiruchirappalli.

In C.R.P.No.2492/2016:

For Petitioner : Mr.R.Sundar Srinivasan
For Respondents : R-1- No appearance
R-2- No appearance
Mr.K.Govindarajan for R-3

In C.R.P.No.2493/2016:

For Petitioner : Mr.R.Sundar Srinivasan
For Respondents : Mr.K.Govindarajan for R-1
R-2- No appearance
R-3- No appearance

**COMMON ORDER**

The first defendant is the revision petitioner in both the Civil Revision Petitions. O.S.No.144 of 2013 was filed by one Annammal, who is the sister of the revision petitioner. It is a suit for partition. The defendants are her two brothers and another sister.

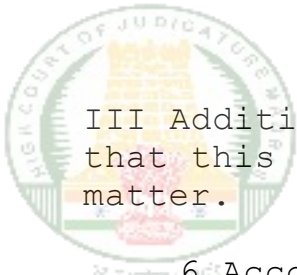
2.The case of the plaintiff is opposed by the brothers on the ground that the sister namely the plaintiff and third defendant had relinquished their shares in the property in question. The deeds of relinquishment are registered documents. Whiles, after the trial commenced, both the sisters took out independent applications for referring the signatures /thumb impression attributed to them for expert opinion. The said I.As were strongly opposed by the revision petitioner by filing counters. But the I.As were allowed by the court below. The orders allowing the I.As are challenged in these Civil Revision Petitions.

3.Heard the learned counsel appearing on either side.

4.The learned counsel appearing for the revision petitioner took this Court to the objection raised by him in paragraph No.7 of the counter in I.A.No.291 of 2015 and the same reads as under:

"7.In fact, the petitioner was examined as P.W.1. She was cross examined. Through her cross examination Exs.B.1 to B4 were marked. Ex.B.1 is the release deed dated 27.02.1986, which is executed by petitioner in favour of her parents. She has admitted her signature in Ex.B.1. She has also identified the signature of her sister Sebasthiyammal in a Release Deed dated 20.01.1989. The petitioner admitted the signature of her mother in the Release Deed dated 14.10.1991. That signature is marked as Ex.B.3. The petitioner admitted that she has no enmity with her mother. She also admitted that her mother ever acted detrimental to her interest at any point of time. The petitioner now says that her mother's signature in the document dated 14.10.1991 is true and her signature in the document dated 14.10.1991 is not true."

5.On a perusal of the same, it is clear that it is definitely a tenable objection and it is the duty of the court below to consider the same. IAs have been allowed by the Court below on the ground that no prejudice would be caused to the respondent therein/revision petitioner. This can never be a ground for allowing the IAs. Accordingly, this Court is of the view that the orders impugned in these Civil Revision Petitions will have to be set aside and the matter can be remanded back to the file of the



III Additional District Judge, Tiruchirappalli. It is made clear that this Court has not expressed any opinion on the merits of the matter.

6. Accordingly, both the Civil Revision Petitions are allowed and the impugned orders passed in I.A.Nos.274 and 291 of 2015 in O.S.No.144 of 2013, dated 14.10.2015 are set aside. The Trial court is directed to decide both the I.As afresh within a period of three weeks from the date of receipt of a copy of this order. No costs. Consequently, Connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar (CS-II)

To

The III Additional District Judge,
Tiruchirappalli.

+1cc to Mr.R.Sundar Srinivasan, Advocate SR.No.77799

+1cc to Mr.K.Govindarajan, Advocate SR.No.77817

Vs

MK/SKN/SAR 2/03.09.2018/3P/4C

C.R.P. (MD).Nos.2492 and 2493 of 2016

09.08.2018