



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.10.2018

CORAM

WEB COPY

THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

C.R.P. (PD) (MD) No.2207 of 2018
and C.M.P. (MD) .No.9843 of 2018

Vandikothappan .. Petitioner/Petitioner/Plaintiff

/Vs./

1.Subramanian Servai
2.Lakshmi
3.S.Muniyandi

..Respondents/Respondents/Defendants

PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India against the order passed in I.A.No.336 of 2017 in O.S.No.168 of 2008 dated 25.10.2017 on the file of the District Munsif Court, Keeranur.

For Petitioners: Mr.R.Jegadeeswaran
For R1 & R2 : Mr.P.Ganapathi Subramanian

O R D E R

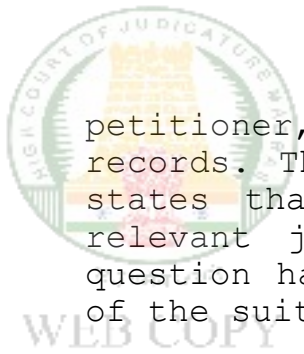
O.S.No.168 of 2008 on the file of the District Munsif Court, Keeranur was filed by the revision petitioner herein against the three defendants. It is a suit for bare injunction. The second defendant is said to be the second wife of the revision petitioner's father. The second marriage had taken place during subsistence of the first marriage between the revision petitioner's father and the revision petitioner's mother. The second defendant placed reliance on an unregistered Will dated 23.03.1989. In the said suit, the revision petitioner filed I.A.No.336 of 2017 for comparing the signature attributed to the revision petitioner's father in the Will dated 23.03.1989 with an admitted signature of the revision petitioner's father in a document dated 27.11.1990. The court below by order dated 25.10.2017 dismissed the said Interlocutory Application. Questioning the same, this Civil Revision Petition has been filed.

2. Heard the learned counsel on either side.

3. The learned counsel for the revision petitioner would strongly contend that he has now come to know that the second attester namely Iyya Kannu was in jail on 23.03.1989 and that has impelled him to question the said Will as forgery.

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

4. Even though such a strong claim is made by the revision



petitioner, he has not been able to produce the relevant jail records. The learned counsel appearing for the revision petitioner states that in spite of best efforts, he could not obtain the relevant jail records. That apart, Interlocutory Application in question has been filed after the gap of 9 years after institution of the suit.

5. The learned counsel appearing for the respondents submitted that evidence on either side has already been adduced and now the matter is posted for arguments. More than anything less Ex.A.9 is only a certified copy. In these circumstances, the order passed by the court below in declining to entertain the request of the revision petitioner is perfectly justified. The order impugned in this Civil Revision Petition is sustained. More than anything else, it is only a suit for bare injunction and therefore, the petitioner herein will have to establish his physical possession of the suit property so as to obtain the relief of injunction. However, the defence available to the revision petitioner is left open.

6. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected C.M.P.(MD)No.9843 of 2018 is also dismissed.

Sd/-
Assistant Registrar(CRL.SIDE)

/True Copy/

Sub Assistant Registrar(CS-I)

To

1.The District Munsif Court,
Keeranur.

2.The Section Officer,
V.R.Section, Madurai Bench of Madras High Court,
Madurai.2COPIES

CM

DS SKN SAR1 24 12 2018 2P 4C

C.R.P. (PD) (MD)No.2207 of 2018
and C.M.P. (MD) .No.9843 of 2018
26.10.2018