

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 04.04.2019

Coram:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.R.P.(PD)No.4171 of 2008
and M.P.Nos.1 & 2 of 2004 and 1 of 2008

Venkatesan

..

Petitioner

versus

1.Narayanan
 2.Chinnammal
 3.Sundaram
 4.Vadivelu
 5.Palanivelu

Respondents

PRAYER: Civil Revision Petition has been filed under Article 227 of the Constitution of India, against the order dated 22.03.2006 made in I.A.No.953 of 2003 made in O.S.No.584 of 1996 on the file of the District Munsif-cum-Judicial Magistrate Court, Omalur.

For Petitioner

: Mr.P.Mani

For Respondent No.1

: Died (steps taken)

For Respondent Nos.2 to 5

: Mr.A.Sundaravadhanan

ORDER

The Miscellaneous Petitions [M.P.Nos.1 and 2 of 2004] have been filed to implead the legal representatives are closed, since all the legal representatives are already brought on record in the trial Court, there is no need to brought them on record.

2. This Revision is filed as against the order dismissing the application filed to send the Will to a finger print expert to compare the thumb impression of the Will with the admitted thumb impression of the Testatrix in suit filed in O.S.No.787 of 1972, the lower Court has dismissed the application on the ground that LTI of Kupammal disputed by the plaintiff in this case. Factually, this is not correct in the counter, they not disputed LTI, in fact they admitted the plaint.

3. When the revision petitioner specifically contended that the thumb impression of Kupammal in the Will is forged, the burden is lies on them to prove the forgery. Therefore, the lower Court dismissing the application on the ground that since the thumb impression of Kupammal was denied by the other side in the plaint, the same cannot be compared. Such order is not based on proper appreciation of a counter. Hence, the order of the

trial Court passed in I.A.No.953 of 2003 made in O.S.No.584 of 1996 dated 22.03.2006 is hereby set aside. The trial Court is directed to send the disputed Will to the Forensic Department and get the report of the finger print expert and thereafter, the trial Court is directed to dispose of the suit within a period of six months.

4. With the above directions, the Civil Revision Petition is allowed. Consequently, the connected Miscellaneous Petitions are closed. No costs.

04.04.2019

Speaking Order / Non Speaking Order
Index : Yes / No
Internet : Yes

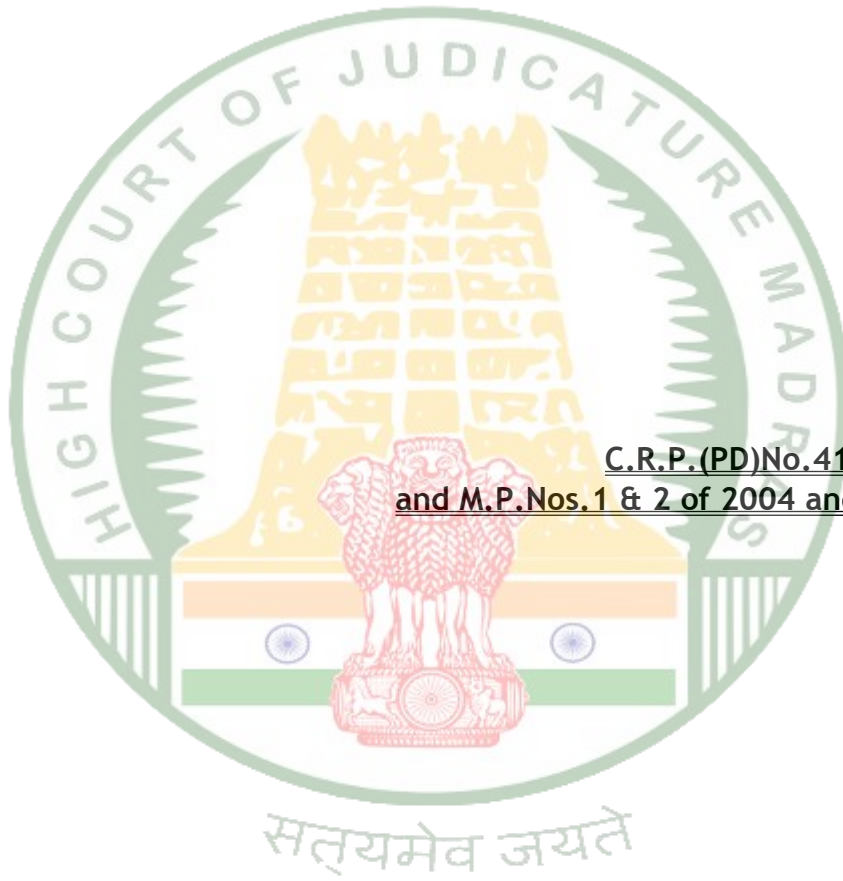
sri

To

The District Munsif
-cum-Judicial Magistrate,
Omalur.

WEB COPY

N.SATHISH KUMAR, J.,
sri



C.R.P.(PD)No.4171 of 2008
and M.P.Nos.1 & 2 of 2004 and 1 of 2008

WEB COPY

04.04.2019