

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.04.2019

C O R A M

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CRP PD No.2610 of 2013
and M.P.No.1 of 2013

1.Murugan
2. Rathnavel
3. Agilandam
4. Rani
5. Dhanakodi

... Petitioners/Defendants

Vs.

Deivanai

... Respondent/Plaintiff

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the order dated 02.02.2013 passed in I.A.No.70/2013 in O.S.No.241/2007 on the file of the District Munsif Court cum Judicial Magistrate, Omalur.

For Petitioners : Mr. R.Neelakandan
For Respondent : M/s.D.Kumari
for M/s.N.Anand

ORDER

This revision petition has been filed against the order dated 02.02.2013 passed in I.A.No.70/2013 in O.S.No.241/2007 on the file

of District Munsif Court cum Judicial Magistrate, Omalur, which was filed to refer the parties to DNA test.

2. The plaintiff has filed a suit claiming that she was born to the fifth defendant's father through his wife Errammal. The fifth defendant took a stand that the plaintiff is not born to his father. Therefore, he filed an interlocutory application viz., I.A.No.70 of 2013. The trial Court has taken note of the fact that both the parents are not alive, therefore, there is no purpose in ordering the DNA test. Hence, dismissed the application, against which, the present Civil Revision Petition is filed.

3. This Court has gone through the order in the earlier case i.e., CRP PD No.3801 of 2013 came before this Court on 21.02.2019. In the above case, this Court has called Dr.N.Mahalakshmi, Deputy Director, DNA Division, Forensic Sciences Department, Chennai-4, she stated as follows:

" It is difficult to find out the paternity of the persons. At the most, they can ascertain that both are from the same family and not on paternity, and the result cannot be conclusive in respect of paternity."

4. In view of the categorical statement made by the expert, this court is of the view that exercising DNA test will not help the parties to the suit. However, the parties are at liberty to establish their right on the basis of other evidence.

5. In the result,

(i) The Civil Revision Petition is dismissed. No costs. The connected miscellaneous petition is closed.

(ii) The fair and decreetal order of the trial court are upheld.

(iii) The trial court is directed to dispose the suit within four months from the date of receipt of a copy of this order.

सत्यमेव जयते

10.04.2019

msv

Index:Yes/No

Internet:Yes/No

Speaking order: Non-speaking order

To

The District Munsif Court
cum Judicial Magistrate,
Omalur.

N.SATHISH KUMAR, J.

msv



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