

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.06.2019

C O R A M

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.R.P.(PD)No.2050 of 2016

1.R.Saraswathi

2.R.Muthayammal

... Petitioners

Vs.

1.R.Balasubramaniam

2.R.Chinnasamy

3.D.Manonmani

4.R.Pavalayammal

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the fair and decreetal order dated 12.02.2016 made in C.F.R.No.13354 of 2015- Memo in I.A.No.156 of 2014 in O.S.No.18 of 2009 on the file of the I Additional Sub Court, Erode.

For Petitioners : Mr.M.Guruprasad

For Respondents : Mr.S.Kaithamalaikumaran

ORDER

This petition is filed by the petitioners seeking to set aside the fair and decreetal order dated 12.02.2016 made in C.F.R.No.13354 of 2015-Memo in I.A.No.156 of 2014 in O.S.No.18 of 2009 on the file of the I Additional Sub Court, Erode.

2. The revision petitioners are the plaintiffs 1 and 3 in the suit. They filed a petition to refer the Will and settlement deed executed in favour of respondents 1-3 to Forensic Department for comparison of disputed signatures. The said petition was dismissed and the trial Court directed the petitioners to produce the contemporaneous signatures of the testator of the Will, namely Late.Ramasamy Gounder. The petitioners submitted the mark sheets of the second and third plaintiff's of the year 1993 and 1994. Whereas, the expert form the Forensic Department, in letter dated 12.10.2015 requested the Court to send 5 to 10 sample signatures of the executant of the Will and settlement deed from the year 1998 to 2001 as the Will was executed on 07.12.2009 but the petitioners could produce only two signatures which were found in the mark sheet issued in the year 1993 and 1994 respectively. Since they could not produce any contemporary signatures, trial Court dismissed the I.A. for the reason that petitioners have not forwarded any contemporaneous documents containing signatures of Late.Ramasamy Gounder but represented the same documents of the year 1993 and 1994, against which, the present

Civil Revision Petition is filed.

3. When the expert requires contemporary signatures to compare it with the disputed documents, the burden is on the petitioners to submit those documents. But in the instant case, they submitted old documents with which comparison cannot be effectively made. Therefore, I do not find any infirmity in the order passed by the Trial Court.

4. Even now it is open to the petitioners to produce the contemporary signatures between the year 1998 and 2001 before the Court within a period of three weeks from the date of receipt of a copy of this order. In such an event, the Trial Court may consider the said documents for sending it Forensic Science Department for comparison of the signatures. If the petitioners could not produce the document, even within the said period, they have to proceed with the suit with the available materials. Further, a direction is given to the Trial Court to dispose of the suit in O.S.No.18 of 2009 as expeditiously as possible.

5. The civil revision petition is disposed of with the above directions.

No costs. Consequently, connected civil miscellaneous petition is closed.

11.06.2019

M. GOVINDARAJ, J.

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