



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.11.2019

CORAM

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.R.P. (MD).No.2028 of 2019

and

C.M.P. (MD).No.10421 of 2019

WEB COPY

1.Vijayarani
2.Prabhakaran
3.Sharmila

... Petitioners

Vs.

C.Karthikeyan

... Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India against the return endorsement in unnumbered I.A.S.R.No.6375 of 2018 in O.S.No.77 of 2018 on the file of the learned Sub Judge, Kovilpatti.

For Petitioners : Mr.S.Deenadhayan

O R D E R

The Civil Revision Petition has been filed challenging the return of unnumbered I.A.S.R.No.6375 of 2018 in O.S.No.77 of 2018 on the file of the learned Sub Judge, Kovilpatti.

2. The learned Sub Judge, Kovilpatti has returned the unnumbered I.A.S.R.No.6375 of 2018 for the following reasons:

" மனுவில் குறிப்பிடப்பட்டுள்ள இரு ஆவணங்களுக்கு இடையிலான கால அளவு 7 வருடங்களுக்கு மேல் உள்ளதால் இம்மனு எங்ஙனம் நிலைக்கத்தக்கது? ஏனவே, இம் மனுவானது திருப்பப்படுகிறது."

Challenging the above said return, the Civil Revision Petition has been filed.

3. The only contention raised by the learned counsel for the revision petitioners is that though the time go beyond 7 years between two documents, the signature will not vary and therefore, there is no impediment for the Court below in numbering the application. Further, he contended that all these aspects can be considered by the Court below after hearing both the parties and without hearing both the parties, the Court below come to the definite conclusion that the application is not maintainable which is totally against the settled proposition of law.



4. In support of his contention, the learned counsel for the revision petitioners relied on a decision of the Hon'ble Supreme Court in the case of **P.Surendran vs. State by Inspector of Police** reported in **2019 (2) TNLR 431 (SC)**, wherein, the Hon'ble Supreme Court has held as follows:

9. The nature of judicial function is well settled under our legal system. Judicial function is the duty to act judicially, which invests with that character. The distinguishing factor which separates administrative and judicial function is the duty and authority to act judicially. Judicial function may thus be defined as the process of considering the proposal, opposition and then arriving at a decision upon the same on consideration of facts and circumstances according to the rules of reasons and justice. A Constitution Bench of five judges in *Jaswant Sugar Mills Ltd., Meerut v. Lakshmichand and Ors.* AIR 1963 SC 677, formulated the following criteria to ascertain whether a decision or an act is judicial function or not, in the following manner-

(1) it is in substance a determination upon investigation of a question by the application of objective standards to facts found in the light of pre-existing legal rule;

(2) it declares rights or imposes upon parties obligations affecting their civil rights; and

(3) that the investigation is subject to certain procedural attributes contemplating an opportunity of presenting its case to a party, ascertainment of facts by means of evidence if a dispute be on questions of fact, and if the dispute be on question of law on the presentation of legal argument, and a decision resulting in the disposal of the matter on findings based upon those questions of law and fact.

5. Heard the learned counsel appearing for the revision petitioners and perused the materials available on record.

6. The application in I.A.S.R.No.6375 of 2018 has been filed for the purpose of sending the disputed signature along with the admitted signature to the handwriting expert for comparison. However, the Court below returned the application stating that the time go beyond 7 years between two documents. But, it is settled principles of law that it is the duty to act judicially which invests with that character. The distinguishing factor which separates administrative and judicial function is the duty and authority to act judicially. Judicial function may thus be defined as the process of considering the proposal, opposition and then arriving at a decision upon the same on consideration of facts and circumstances according to the rules of reasons and justice. In the present case, without hearing both the parties, the Court below has come to the conclusion that the admitted signature cannot be compared with the disputed signature and it is totally against the



settled proposition of law. Therefore, this Court directs the learned Sub Judge, Kovilpatti to receive and number the application in I.A.S.R.No.6375 of 2018 and hear the matter judicially.

7. With the above direction, the Civil Revision Petition is disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

akv

To

The Sub Judge,
Kovilpatti.

Copy to: The Section Officer,
ER Section,
Madurai Bench of Madras High court, Madurai

(to return the original impugned order)

+1 CC to Mr.S. DEENADHAYALAN, Advocate (SR-97853[F] dated 13/11/2019)

C.R.P. (NPD) . (MD) .No.2028 of 2019
12.11.2019

MK (03.01.2020) 3P 4C