

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2020

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

C.R.P.PD.No.345 of 2020

and

CMP.No.1808 of 2020

Loganathan

... Petitioner

Vs.

1. Valliammal

2. Srinivasan

3. Rajeswari

4. Gokila

... Respondents

Prayer :- This Civil revision has been filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 16.10.2019 made in I.A.No.836 of 2015 in O.S.No.355 of 2014 on the file of the II Additional Subordinate Court, Erode.

For petitioner

: Mr. M. Guruprasad

ORDER

This Civil Revision Petition has been filed against the order dismissing the petitioner's application to conduct DNA test for fixing the paternity of the deceased Ramasamy by comparing the DNA for the plaintiffs 2 to 4 with the petitioner's DNA.

2. The petitioner is the 7th defendant in the suit. The respondents 1 to 4 herein filed a suit in O.S.No.355 of 2014 on the file of the II Additional Sub-Court, Erode for partition and also for an injunction restraining the defendants from interfering with the possession of the plaintiff in the suit schedule property. The above suit has been filed on the ground that the suit properties belong to one Ganapathy Gounder and he was the absolute owner for the same and he died intestate in the year 1988 leaving his wife Chinnammal, sons Ramasamy, Krishnasamy, Loganathan, who is the 7th defendant in the suit and daughter Chenji Lakshmi as his legal heirs, and after his death, the legal heirs were enjoying the suit property jointly. Thereafter, Ramasamy died in the year 1991, leaving the plaintiffs and mother Chinnammal as his legal heirs. In the year 2003 other son Krishnasamy died leaving the defendants 1 to 5

and mother Chinnammal as his legal heirs. Thereafter, the plaintiffs sought for partition of the suit property, which was denied by the defendants and hence, the present suit has been filed. The 7th defendant has contested the suit filing written statement stating that the Ramasamy is not the legal heir of the Ganapathy Gounder. Earlier Chinnammal was married to one Mariappan, who is the elder brother of Ganapathi Gounder and the said Ramasamy was born to Mariappan. After the death of Mariappan, Ganapathi Gounder married her and Krishnasamy, Loganathan and daughter Chenji Lakshmi were born to them. Hence, the Ramasamy cannot claim any right over the suit schedule property. Now, after commencement of trial, the petitioner herein filed an application to conduct a DNA test for the purpose of establishing the fact that the Ramasamy was not born to Ganapathi Gounder and he was the son of Mariappan, who is the brother of the Ganapathi Gounder. That application has been dismissed by the trial Court. Now, challenging the same the present revision has been filed.

3. Heard the learned counsel for the petitioner and perused the materials available on records .

4. The petitioner is disputing the paternity of Ramasamy alleging that Ramasamy was not born to Ganapathy Gounder and he was born to Mariappan, who is the brother of the Ganapathi Gounder and hence, the petitioner wants to compare the DNA of the plaintiffs 2 to 4 with the petitioner's DNA. That application has been dismissed by the trial Court stating that Ramasamy is no more and that apart, the none of the legal heirs of the Mariappan is available to ascertain the unique DNA and the plaintiffs 2 to 4 are born in the third generation. That apart, the DNA samples of the deceased Mariappan, Ganapathii Gounder Ramasamy are not available. Even the blood samples of the mother Chinnammal is also not available. In the said circumstances, there is no chance for comparing the DNA and the DNA test sought to be compared in a Government Headquarters Hospital, Erode, where such facility is not available. Now, it is not disputed that none of the DNA samples of deceased Mariappan, Ganapathy Gounder, Ramasamy and Chinnammal are available. The present parties are the third generation. In the said circumstances, by considering DNA, no useful purpose will be served. Considering the above circumstances, the trial

Court rightly dismissed the application. Hence, I find no illegality or irregularity in the order passed by the Court below and I find no merit the revision.

5. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

31.01.2020

mrp

Index : Yes/No

Internet : Yes/No

Speaking order/non speaking order

To

II Additional Sub Court,
Erode.

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V.BHARATHIDASAN, J.,

mrp



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