

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P.No.583 of 2018

and

C.M.P.Nos.3132 of 2018 and 10468 of 2020

1.Alamelu

2.Sathiya

3.Minor Manigandan

[Represented by his natural guardian 1st petitioner]

.. Petitioners

Vs.

1.Arimuthu

2.Chandra

3.Venkatesh

..Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the fair and final order dated 06.01.2017 passed by Principal District Munsif Court, Tiruvannamalai made in I.A.No.551 of 2013 in O.S.No.239 of 2007.

For Petitioners : Mr.B.Jawahar

For Respondents : Mrs.R.T.Sundari for R2 and R3

O R D E R

This matter is taken up for hearing through Video-Conferencing.

2. This Civil Revision Petition is directed against an order made in I.A.No. 551 of 2013 rejecting an application filed by the petitioners / plaintiffs seeking DNA test to prove their status as children of the first defendant.

2. Pending Revision, the first defendant had died. Hence, the petitioners have come up with the petition in C.M.P.No.10468 of 2020 seeking DNA test for the petitioners 2 and 3 along with the respondents, who are admittedly the children of the first defendant.

3. The learned counsel for the respondents would oppose the same contending that the DNA test cannot be ordered as against the wishes of the parties. Though, the said statement is unacceptable, however, on the death of the first defendant, the prayer in I.A.No.551 of 2013 has become infructuous. I do not think, I will be justified in ordering DNA test for the petitioners and the respondents in order to ascertain the paternity of the petitioners 2 and 3 in this revision. However, the petitioners 2 and 3 cannot be left high and dry due to the death of the first defendant / first respondent.

4. Therefore, this Civil Revision Petition is disposed of, leaving it open to the petitioners to seek DNA test with the respondents 2 and 3 before the trial court. If such application is filed, the trial court is directed to dispose it of on merits without being influenced by any of the observations made in this order or in the order of the trial court in I.A.No. 551 of 2013, which is subject matter of the Revision.

5. This Civil Revision Petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

dsa

To

The Principal District Munsif, Tiruvannamalai.

+1cc to Mr.B.Jawahar, Advocate, S.R.No. 42676

C.R.P.No.583 of 2018

SS(CO)
GN(18/01/2021)

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