



C.R.P(PD). No.879 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **01.11.2021**

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THE HONOURABLE MRS.JUSTICE **T.V.THAMILSELVI**

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and

C.M.P. No.5715 of 2019

1. Krishnaveni
2. Shanmuga Priya

.. Petitioners

Vs

1. Minor V.Yunekh
 2. Minor V.Vijayasundar
- Both represented by next friend
mother V.Kavitha

.. Respondents

Prayer : Civil Revision Petition filed under Article 227 of Constitution of India praying to set aside the Docket order dated 25.01.2019 in I.A.No.454 of 2017 in O.S.No.228 of 2011 on the file of the Principal District Munsif, Ulundurpet.

For Petitioners : Mr.N.Suresh

For Respondents : Mr.C.Prabhakaran

ORDER

This Civil Revision Petition has been filed against the Docket order dated 25.01.2019 made in I.A.No.454 of 2017 in O.S.No.228 of 2011 on the file of the Principal District Munsif, Ulundurpet.

2. The revision petitioners herein are the defendants in the suit in O.S.No.228 of 2011 filed by the respondents/plaintiffs for the relief of



declaration of their title and for permanent injunction in respect of the suit properties. The plaintiffs claimed right over the property based upon an unregistered Will dated 19.04.2010, which is said to be executed by one Dr.N.V.Arunachalam. The defendants by filing their written statement denied the plaintiffs' claim contending that the alleged Will is fabricated one and not executed by the testator Dr.N.V.Arunachalam.

3. During the pendency of the suit proceedings, the defendants filed an application in I.A.No.454 of 2016 under Order 26 Rule 10(A) r/w. Sec.151 C.P.C. praying to compare the signature in the alleged Will with the signature of Dr.N.V.Arunachalam in the sale deed executed by him to third party on 19.04.2010 by hand writing expert. The said application was strongly objected by the plaintiffs contending that the said Will is the last Will of the testator and it was acted upon.

4. On hearing both sides, the learned Trial Judge allowed the said application by appointing an Advocate Commissioner to take proper custody of the alleged Will dated 19.04.2010 and produce the same before the Forensic Lab and to get the report. Thereafter, the defendants filed an application in I.A.No.914 of 2018 under Section 76 of Civil Rules of Practice, to send for the "Impression Record" pertaining to the Sale deed executed by Dr.N.V.Arunachalam on 19.04.2010 to



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K.Duraikannu vide Document No.1035/2010 and permit the same to be produced before the hand writing expert (Forensic Lab, Chennai). The said application was also allowed by the learned Trial Judge on 26.09.2018.

5. On 30.11.2018, the Deputy Director, Forensic Sciences Department, Chennai has sent a communication to the Principal District Munsif, Ulundurpet, which reads as follows:

"To compare the disputed signatures made on the unregistered Will dated 19.04.2010, only one admitted signature made on the Page No.104 of Thumb Impression Register (Document No.1035), SRO, Ulundurpet dated 19.04.2010 is provided, which is not sufficient. Hence, some more (5 to 7 Nos.) contemporary admittedly genuine signatures of the said person called "V. Arunachalam" found on authentic documents like, Registered documents, Agreements, Bank documents [Cheques, Account Opening Form, Withdrawal Form etc.] and other original documents, preferably made during years 2008-2010 are required for examination"

6. Challenging the said observation made by the Forensic Sciences Department the defendants have filed this revision petition.

7. At the time of argument, the learned counsel for the revision petitioners would submit that the Thumb Impression Register dated 19.04.2010 relating to Document No.1035/2010 is more sufficient but



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the Forensic Authorities concerned, need some more document. If necessary, the Court can direct the said Registering Authority, SRO, Ulundurpet to produce the sale deed concerned to the Document No.1035/2010 which contains the signature of the said N.V.Arunachalam, which is more sufficient for comparison.

8. Admittedly, the Sale Deed dated 19.04.2010 relating to document No.1035/2010 has to be enclosed along with the Thumb Impression Register. Hence, this Court is inclined to call for the said Sale Deed registered as Document No.1035/2010 for production before the Forensic Sciences Department for comparison of signatures. The Registrar of Books is hereby directed to produce the Sale Deed dated 19.04.2010 registered as Doc.No.1035 of 2020 before the Forensic Sciences Department, Chennai through Court Commissioner, for comparison of signatures.

9. With the above direction, the Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

01.11.2021

Internet : Yes/No
Index : Yes/No
Speaking/Non speaking order
rsi



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To
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The Principal District Munsif,
Ulundurpet.



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T.V.THAMILSELVI, J.

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