

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 25.03.2021

CORAM:

THE HONOURABLE MRS. JUSTICE **V.BHAVANI SUBBAROYAN**

C.R.P.(PD) No.656 of 2021

and

C.M.P.No.5632 of 2021

V.Hemalatha

...Petitioner

Vs

1.K.Sarguna Sundari

2.K.Jawahar Raj

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and final order dated 20.01.2021 made in I.A.No.4 of 2019 in O.S.No.363 of 2014 on the file of the I Additional District Cum Sessions Court, Coimbatore.

For Petitioner : Mr.Arun Kumar

ORDER

The prayer sought for in the present revision petition is to set aside the fair and final order dated 20.01.2021 made in I.A.No.4 of 2019 in O.S.No.363 of 2014 on the file of the I Additional District Cum Sessions Court, Coimbatore.

2.The petitioner had filed a petition in I.A.No.4 of 2019 in O.S.No.363 of 2014, seeking to direct the Bank Manager of Indian Overseas Bank, Mathampatti Branch to produce the account opening form of M.A.Kalingarathinam (deceased), for the purpose of comparing his signature with that of the Will, which has been marked by the defendants in the suit as Ex.B1. The said petition was filed by the defendants on the ground that the earlier Interlocutory Application in I.A.No.258 of 2018 had already been dismissed by the trial Court on 15.11.2018, against which, C.R.P.No.245 of 2019 was filed before this Court, which was dismissed. The present interlocutory application, at the instance of the petitioner, is only for the purpose of prolonging the litigation and defeating the rights of the defendants and also taking into consideration the fact that the I.A.Nos.1 and 2 of 2019 had already been dismissed by the Court below on 10.09.2019. The Court below dismissed the interlocutory applications filed by the petitioner herein with exemplary cost, against which the present civil revision petition has been filed.

3. The learned counsel for the petitioner submits that the account opening form of Kalinga Rathinam is very much necessary to compare the signature finding in Ex.B1 and the whole issue revolves around the veracity of the will. The learned counsel further submitted that without perusing the said fact, the Court below had dismissed the interlocutory application filed by the petitioner herein, which requires interference at the hands of this Court.

4. This Court considered the submissions advanced by the learned counsel for the petitioner and also perused the materials available on record.

5. The suit was initiated by the plaintiff/petitioner herein as early as in the year 2014 and from the materials available on record, it is evident that all the witnesses have been examined and the documents have been marked and that the suit itself has been posted for arguments. Even in the year 2018, the petitioner herein had filed I.A.No.258 of 2018, praying to send the signature of the deceased Kalinga Rathinam for expert opinion, which was dismissed by the trial Court vide its order

dated 15.11.2018, which was subsequently confirmed by this Court in C.R.P.No.245 of 2018. The I.A.Nos.1 & 2 of 2019 filed by the petitioner herein for the purpose of appointment of Advocate Commissioner was also dismissed by the trial Court on 10.09.2019 and therefore, the Court below had given a finality, insofar as the signature of Kalinga Rathinam is concerned. The petitioner has not challenged the order passed by this Court in C.R.P.No.245 of 2019 and therefore, the same has also attained finality. That being the case, filing of the present interlocutory application, praying to compare the will with the signature found in the account opening form of the said Kalinga Rathinam, is nothing to re-open the issue of finding about the veracity of the signature of the deceased Kalinga Rathinam, which had attained finality. Therefore, the Court below had rightly rejected the prayer of the petitioner and the further finding of the Court below that the present act of the petitioner herein was only for the purpose of the prolonging the litigation also cannot be processed. The Court has applied its mind to the materials placed before it in proper perspective and arrived at a finding which is just and reasonable and based on the materials available on record, no interference is required at the hands of this Court.

6. Accordingly, the present civil revision petition stands dismissed.

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

25.03.2021

Index:Yes/No
Speaking order/Non Speaking order
sbn

To
The I Additional District Cum Sessions Court,
Coimbatore.

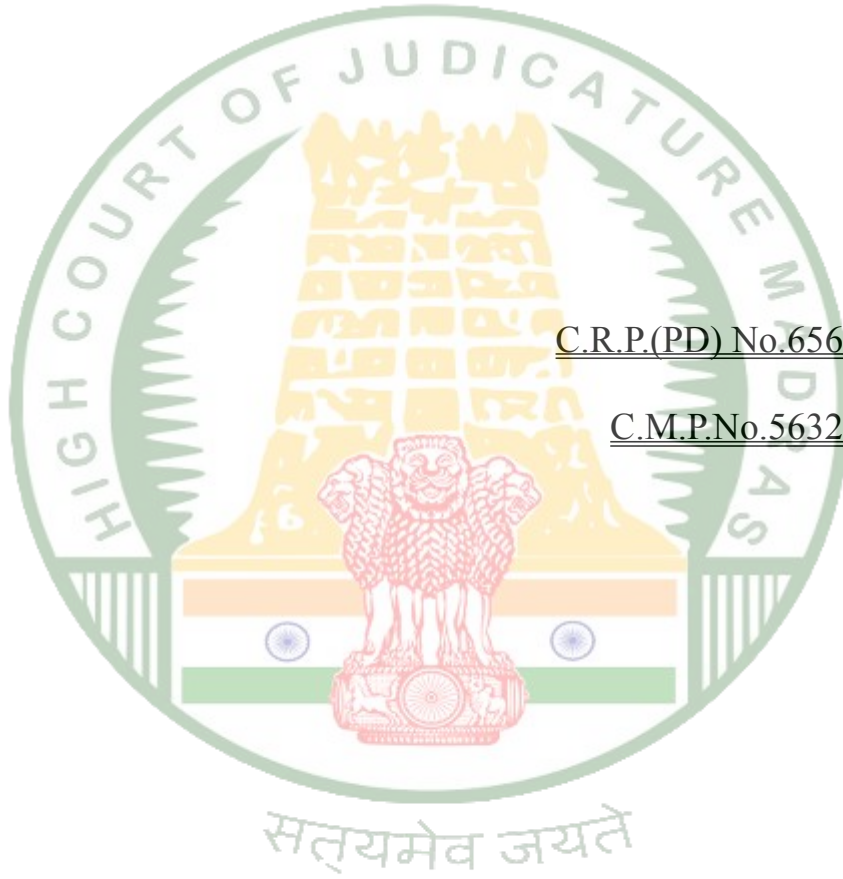


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V.BHAVANI SUBBAROYAN, J.

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