

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2021

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRP.NPD.Nos.2184 & 2185 of 2016 and
CMP.No.11370 of 2016

CRP.PD.No.2184 of 2016

1.Raghupathy
2.Jeyaragini

..Petitioners

Vs.

Bangarusamy Reddiar (died)
1.Rajeshwari

..Respondent

PRAYER:

The Civil Revision Petition is filed under Article 227 of the Constitution of India against the judgment and decree dated 01.06.2016 in IA.No.30 of 2015 on the file of the Sub Court, Attur in AS.No.1 of 2006

For Petitioner : Mr.V.Raghavachari

For Respondent : Mr.R.Prabakar
for Mr.M.R.Vivekananthan

CRP.PD.No.2185 of 2016

1.Raghupathy
2.Jeyaragini

..Petitioners

Vs.

Bangarusamy Reddiar (died)
1.Rajeshwari

..Respondent

PRAYER:

The Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decretal order dated 01.06.2016 in IA.No.31 of 2015 on the file of the Sub Court, Attur in AS.No.1 of 2006

For Petitioner : Mr.V.Raghavachari

For Respondent : Mr.R.Prabakar
for Mr.M.R.Vivekananthan

COMMON ORDER

The Civil Revision Petitions are filed against the judgment and decree dated 01.06.2016 in IA.No.30 of 2015 on the file of the Sub Court, Attur in AS.No.1 of 2006 and fair and decretal order dated 01.06.2016 in IA.No.31 of 2015 on the file of the Sub Court, Attur in AS.No.1 of 2006

2. The petitioners are the defendants. The deceased respondent filed suit for specific performance and injunction. The said suit was decreed by judgment and decree dated 30.09.1999. Thereafter the plaintiff executed Will in respect of the suit property in favour of his sister's daughter. After execution of Will, the plaintiff filed execution petition in

REP.No.69 of 2000. While pending EP, the original plaintiff died and the respondent herein was impleaded as petitioner. Thereafter in the year 2006, the petitioners filed appeal suit as against the judgment and decree dated 30.09.1999. After nine years, the petitioners came forward with the petition to send the Will dated 02.01.2003 filed by the respondent herein to the fingerprint expert opinion with regards to the signature of the deceased plaintiff. The petitioners also filed petition for calling for the Will which was marked before the Execution Court.

3. On perusal of the records show that the petitioners have no objection to implead the respondent as petitioner in the execution petition, only on the basis of Will dated 02.01.2003, since the original plaintiff died without any issues. The original plaintiff executed Will in favour of the respondent herein who is being the own sister's daughter. When it being so, it cannot be now questioned that the Will executed by the deceased plaintiff in favour of the respondent with regards to the signature. Further, it was already marked before the execution court. The petitioners filed appeal suit after period of seven years from the date of decree and thereafter after period of 9 years from the date of appeal, they filed present petition. Therefore, only to drag the proceedings, these petitions

have been filed and the trial court rightly dismissed the same. As such, this court finds no irregularity or infirmity in the orders passed by the court below.

4. Accordingly, both the civil revision petitions are dismissed. The appellate court is directed to dispose of the appeal in AS.No.1 of 2006 within a period of three months from the date of receipt of copy of this order. Consequently, connected miscellaneous petition is closed. No order as to costs.

15.02.2021

Speaking/Non-speaking order
Index : Yes/No
Internet : Yes/No
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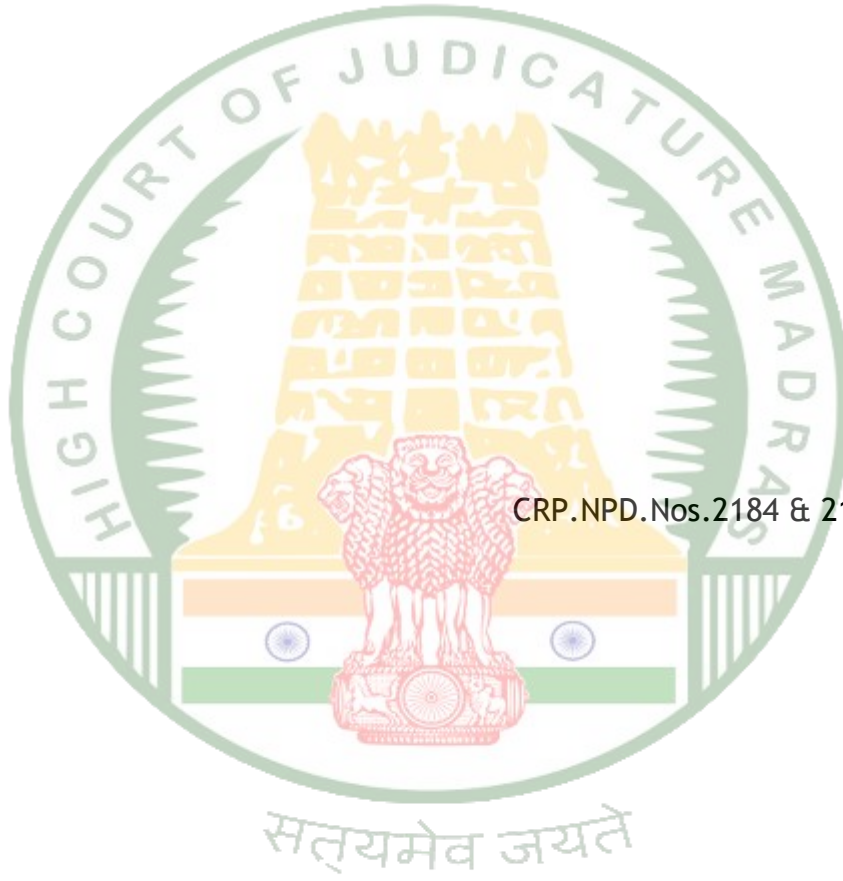
The Subordinate Judge,
Attur



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G.K.ILANTHIRAIYAN,J.

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CRP.NPD.Nos.2184 & 2185 of 2016

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