



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.10.2021

CORAM:

THE HON'BLE MR.JUSTICE G.CHANDRASEKHARAN

C.R.P.NOS.2333 & 2334 OF 2021

AND

C.M.P.NO.17688 OF 2021

1. Ponnammal
2. Muthulakshmi

... Petitioners in both
the Petitions

.Vs.

1. Kuppusamy
2. Periasamy
3. Rajkumar
4. Palanisamy
5. K.Palanisamy

... Respondents in both the
Petitions

COMMON PRAYER:-

Civil Revision Petitions filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 05.02.2020 passed in I.A.No.513 & 514 of 2018 in O.S.No.233 of 2011 on the file of District Munsif Court, Kangayam, Thirupur District and allow the same.

For Petitioners : Mr.V.Regunathan
(in both Petitions)

C O M M O N O R D E R

C.R.P.No.2333 of 2021 is filed challenging the order passed in I.A.No.514 of 2018 in O.S.No.233 of 2011 and C.R.P.No.2334 of 2021 is filed challenging the order passed in I.A. No.513 of 2018 in O.S.No.233 of 2011 on the file of District Munsif Court, Kangayam.

2. I.A.No.513 of 2018 was filed for reopening the evidence on the side of Plaintiffs and I.A.No.514 of 2018 was filed for sending the Will dated 07.07.1999 to compare the document writer G.Muthusamy's signature with his admitted signatures found in



the register maintained by the concerned Sub-Registrar for comparison by the handwriting expert.

3. The Learned Counsel for the Petitioners submitted that the Petitioners filed the Suit in O.S.No.233 of 2011 for partition against the Respondents. The First Petitioner is the wife and the Second Petitioner is the daughter of late Chinnappa Kounder. The First and Second Respondents are the sons of late Chinnappa Kounder. The Respondents claimed exclusive right in the suit properties on the basis of the Will dated 07.07.1999 said to have been executed by late Chinnappa Kounder. The late Chinnappa Kounder has not executed any Will, more specifically the Will dated 07.07.1999. The Will is a forged Will. The Respondents took steps for sending the Will for comparing the signatures of late Chinnappa Kounder with his admitted signatures. After the comparison of disputed signatures of late Chinnappa Kounder in the Will with his admitted signatures, handwriting experts found that signatures in the Will dated 07.07.1999 are his signatures. Now it came to the notice of the Petitioners that the scribe of the Will G.Muthusamy died long back. When DW3 was examined, he admitted that the Will was written in hand. On the other hand, Will is a typed Will. It creates a genuine doubt in the execution of the Will by the late Chinnappa Kounder. Therefore, the Will has to be sent for handwriting experts' opinion for comparing the signatures of the scribe G.Muthusamy with his admitted signatures. However, without considering the merits of the Petitioners' case, the Petition was dismissed. Therefore, this Petition.

4. Considered the submissions of the Learned Counsel for the Petitioners and perused the records.

5. It is evident from the submissions made by the Learned Counsel for the Petitioners that the Will dated 07.07.1999 was already sent for handwriting experts' opinion for comparing the signatures of the late Chinnappa Kounder in the Will with his admitted signatures. Handwriting Experts found that signatures of late Chinnappa Kounder found in the Will are his signatures. This Petition is primarily filed on the basis of evidence given by DW3. He stated that the Will was written in hand, while the Will was a typed Will.

6. The Learned Counsel for the Petitioners only pick up some sentences from the evidence of DW3. The entire reading of the evidence of DW3 shows that sample for preparing the Will was written in hand and then it was typed. Thus, there is no doubt that only draft was written in hand and Will was typed. Therefore, it is absolutely not necessary for subjecting the scribe G.Muthusamy's signatures for comparing with his admitted signatures. These Petitions are not maintainable and are clear



abuse of process of law, especially when already there is hand writing expert opinion confirming the signatures of the late Chinnappa Gounder in the Will.

7. In this view of the matter, this Court finds no reason to interfere with the orders of the Learned District Munsif, Kangayam, Thirupur District. Hence, the orders of the Learned District Munsif, Kangayam, Thirupur District passed in I.A.No.513 and 514 of 2018 in O.S. No. 233 of 2011 are confirmed.

8. Resultantly, these Civil Revision Petitions are dismissed with the costs of Rs.5,000/- to the Respondents. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

The District Munsif,
Kangayam,
Thirupur District.

C.R.P.NOS.2333 & 2334 OF 2021 AND
C.M.P.NO.17688 OF 2021

PL(CO)
PBS/06/12/2021