

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2021

C O R A M

THE HON'BLE MR. JUSTICE **KRISHNAN RAMASAMY**

C.R.P.(NPD).Nos.3289 & 3291 of 2018
and C.M.P.No.18639 of 2018

Palanisamy

...Petitioner
in both C.R.Ps

Vs

1.Gayathri
2.Yamuna

... Respondents
in both C.R.Ps

Prayer Civil Revision Petitions filed under Section 115 of the Civil Procedure Code, against the fair and final order dated 07.09.2018 made in I.A.Nos.441 & 442 of 2017 in A.S.No.35 of 2015 on the file of the learned I Additional District Judge, Coimbatore.

In both C.R.Ps

For Petitioner : Mr.L.Mouli

For Respondents : Mr.A.Kundavai

COMMON ORDER

These Civil Revision Petitions have been filed against the order dated 07.09.2018 made in I.A.Nos.441 & 442 of 2017 in A.S.No.35 of 2015 on the file of the learned I Additional District Judge, Coimbatore.

2.I.A.No.441 of 2017 was filed to receive the additional documents viz., copy of the vakalat and plaint in O.S.No.1035 of 1995 and I.A.No.442 of 2017 was filed to send the said documents for verification. After hearing both the parties, the Court below dismissed both the applications stating that the production of these documents will no way help the petitioner to prove his case. Aggrieved over the same, these Civil Revision Petition has been filed.

3.C.R.P.No.3289 of 2018 has been filed challenging the order dated 07.09.2018 in I.A.No.441 of 2017 and C.R.P.No.3291 of 2018 has been filed challenging the order dated 07.09.2018 in I.A.No.442 of 2017.

4.The learned counsel for the petitioner submitted that the whereabouts of Mr.A.P.C.Sargunar, learned counsel, who prepared the Ex.B1/Will was not know during the pendency of O.S.No.329 of 2008. Now, the petitioner came to know that the said Mr.A.P.C. Sargunar has filed O.S.No.1035 of 1995 before the III Subordinate Judge, Coimbatore and he has signed in the vakalat as well as in the plaint in O.S.No.1035 of 1995. Therefore, the petitioner seeks

permission to produce the copy of the vakalat and plaint in O.S.No.1035 of 1995 to compare the signature of the said Mr.A.P.C.Sargunar with the signature available in Ex.B1/Will. He further submitted that the Court below without considering these aspects has rejected the plea of the Revision Petitioner stating that the production of the said documents are not going to help the Revision Petitioner in any way. Aggrieved by the order, the Revision Petitioner preferred the present Civil Revision Petitions and prayed to set aside the order passed in said I.As.

5.Per Contra, the learned counsel for the respondents submitted that admittedly the Will was prepared by Mr.A.P.C.Sargunar and his signature is available in the plaint in O.S.No.1035 of 1995. However, it is not going to prove the Will. The Will has been proved before the Trial Court in the manner known to law and therefore, even marking of the vakalat and plaint in O.S.No.1035 of 1995 will not help the Revision Petitioner. The Revision Petitioner has to prove his case by way of let in evidences and by examining the witnesses. Instead, the Revision Petitioner is taking unnecessary steps to mark the additional documents. The Court below has rightly dismissed the

application and well reasoned order need not be interfered with.

6.Heard the learned counsel for the petitioner as well as the respondents and perused the materials available on record.

7.Upon perusal, it appears that the petitioner has filed two applications in I.A.Nos.441 and 442 of 2017 for the purpose of receiving the documents and to send the signature of the person who drafted the Will for verification. According to the petitioner for the purpose of comparing the signature of Mr.A.P.C.Sargunar, learned counsel who prepared the Will, the above said applications was filed. The Court below has rejected the same stating that the production of documents for comparison of signature, any way is not going to help the Revision Petitioner to prove his case. Whereas, the Will needs to be proved by examining the witnesses to the Will and not by the person who prepared the Will. Therefore the Court below rejected both the applications.

8.In view of the above, this Court is also of the view that, comparing the signature of the person who drafted the Will with the signature available in the

plaint and vakalat in O.S.No.1035 of 1995 is no way helpful for the Revision Petitioner to disprove the Will. The Will can be disproved by examining the attested witnesses and therefore, this Court does not find any merits in the applications made by petitioner. Therefore this Civil Revision Petition deserves for dismissal.

9. Accordingly, these Civil Revision Petitions is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

23.02.2021

Internet: Yes/No

Speaking order/Non-speaking order

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To:

The I Additional District Judge, Coimbatore.

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KRISHNAN RAMASAMY,J.

rst



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