



C.R.P(PD).No.792 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2022

CORAM :

THE HONOURABLE MS. JUSTICE R.N.MANJULA

C.R.P(PD).No.792 of 2022

and

C.M.P.No.3991 of 2022

1. S.Dhamodaran

2.S.Purushotaman

... Petitioners

Vs

Andal Ammal

... Respondent

Prayer:- Civil Revision Petition is filed under Article 227 of the Constitution of India, pleaded to set aside the order dated 20.11.2021 made in I.A.No.276 of 2021 in O.S.No.20 of 2017 on the file of the III Additional District Judge, Kallakurichi.

For Petitioners : Mr.T.Subramanian

For Respondent : Ms.M.Udaya Banu



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ORDER

This Civil Revision Petition has been preferred challenging the order of the learned III Additional District Judge, Kallakurichi, dated 20.11.2021 made in I.A.No.276 of 2021 in O.S.No.20 of 2017.

2. The revision petitioners are the defendants. The respondent/plaintiff has filed a suit against the defendants for the release of partition and separate possession. During the pendency of the suit, the defendants have filed a petition in I.A.No.276 of 2021 under Section 45 of CPC., to compare the signatures in the subject Will to the admitted signature of the alleged executor of the Will. The said petition was dismissed. Aggrieved over that, the present Civil Revision Petition has been preferred.

3. Heard the learned counsel for the petitioners as well as the learned counsel for the respondent and perused the materials available on record.



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4. Learned counsel for the petitioners submitted that the petition was dismissed solely on the ground that the defendants omitted to produce the contemporary signatures of the deceased Srinivasulu; but, there is no bar to compare the thumb impression of Srinivasulu, hence, the petition can be allowed.

5. On perusal of the disputed Will, it is seen that the Executant did not affixed thumb impression, but affixed the signatures. In the said circumstances, it is right for the learned trial Judge to call for the documents containing the contemporary signatures of Srinivasulu for comparison.

6. Learned counsel for the petitioners attracted the attention of this Court to the thumb impression alleged to have been affixed by Srinivasulu at page No.2 of the Mortgage Deed, dated 29.09.1966, to the availability of the thumb impression. When the Executor of the Will had only affixed the signatures in the disputed Will and the prayer before the learned trial Judge was also only to compare the signatures, the revision petitioners, at their convenience, cannot claim that the Court ought to have proceeded to compare the admitted thumb impression of the



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Executor. The learned trial Judge has rightly dealt the issue. I do not find any factual or legal infirmity warranting my interference.

7. In the result, this Civil Revision Petition stands dismissed and the impugned order of the learned III Additional District Judge, Kallakurichi, dated 20.11.2021 made in I.A.No.276 of 2021 in O.S.No.20 of 2017 is hereby confirmed. Consequently, the connected Miscellaneous Petition is also closed. No costs.

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rgi

Index : Yes

Internet : Yes

Speaking Order



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To

1. The III Additional District Judge, Kallakurichi.
2. The Section Officer,
VR Section, Madras High Court,
Chennai.



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R.N.MANJULA, J.

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