



WEB COPY



CRP (PD) Nos.3185 and 3186 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2022

C O R A M

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

C.R.P (PD) Nos.3185 and 3186 of 2016
and C.M.P.No.16204 of 2016

1. Sellamuthu
2. Minor. Periasamy
3. Minor. Ambedkar
4. Minor. Manimegalai

(Minors 2 to 4 represented by
their Sellammal Sivappayee guardian
grand mother)

5. Sellammal Sivappayee

... Petitioners
in both C.R.Ps.

Vs.

1. Rajendran
2. Muthusamy
3. Palaniappan
4. Muthammal
5. Sudha
6. Raju
7. Kannan
8. Seva
9. Shanthi
10. Narayana Konar

... Respondents
in both C.R.Ps.



CRP (PD) Nos.3185 and 3186 of 2016

PRAYER IN C.R.P.(PD) NO.3185 OF 2016: The Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decreetal order dated 01.03.2016 in I.A.No.1594 of 2015 in O.S.No.189 of 2009 on the file of the Principal District Munsif Court, Kallakurichi.

PRAYER IN C.R.P.(PD) NO.1937 OF 2016: The Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decreetal order dated 01.03.2016 in I.A.No.2171 of 2015 in O.S.No.189 of 2009 on the file of the Principal District Munsif Court, Kallakurichi.

For Petitioners : Mr.P.Valliappan
in both C.R.Ps.

For Respondents : M/s.M.Santhanaraman
in both C.R.Ps.

- - - - -

COMMON ORDER

These Civil Revision Petitions have been filed against the fair and final order passed by the Court below in I.A.Nos.1594 and 2171 of 2015 in O.S.No.189 of 2009, dated 01.03.2016 dismissing the applications filed by the petitioners/plaintiffs to send the disputed thumb impression found in the Power of Attorney document along with the thumb impression that was obtained in the Sub-Registrar Office and to get an Expert opinion on the genuineness of the thumb impression.



WEB COPY

2. The petitioners/plaintiffs filed a suit in O.S.No.189 of 2009 seeking for the relief of declaration of title and for permanent injunction.

3. During the pendency of the suit, the petitioners had filed I.A.No.2872 of 2010 to get an Expert opinion on the signature that was found in the Power of Attorney document, which was disputed and the application was allowed and a report was also received from the Expert. On completion of trial, the suit was at the stage of final hearing. At this point of time, I.A.Nos.1594 and 2171 of 2015 were filed to send for the disputed thumb impression in the Power of Attorney document for Expert opinion. Both the applications came to be dismissed by the Court below through order dated 01.03.2016. Aggrieved by the same, these Civil Revision Petitions have been filed by the petitioners/plaintiffs.

4. Heard Mr.P.Valliappan, learned counsel appearing for the petitioners and M/s.M.Santhanaraman, learned counsel appearing for the respondents.



5. The Court below, while dealing with the above applications, has given a finding to the effect that even on an earlier occasion when I.A.No.2872 of 2010 was filed by the petitioners to get an Expert opinion on the signature that was found in the document, the petitioners could have sought for the opinion on the thumb impression also that was found in the document. The petitioners did not seek for such a relief. Hence, the document was sent and the signature was compared and the Expert opinion has been received. When the suit was at the stage of final hearing, the applications came to be filed by the petitioners/plaintiffs to send the disputed thumb impression found in the document for Expert opinion.

6. The petitioners cannot seek for reliefs on an instalment basis with regard to the very same document. If really the petitioners were clear that both the signature as well as the thumb impression found in the document are forged, they should have sought for an opinion for both the signature and the thumb impression. This is more so since the same document is involved. The petitioners had chosen to send the disputed signature alone and the report has already been received from the Expert. When the suit was at the stage of final hearing, the petitioners are once again seeking for Expert opinion on the thumb impression found in the document. This is clearly an afterthought and it will



CRP (PD) Nos.3185 and 3186 of 2016

unnecessarily delay the disposal of the suit. The Court below has given cogent reasons for rejecting the applications filed by the petitioners and this Court does not find any illegality or infirmity in the order passed by the Court below, warranting the interference of this Court in exercise of its jurisdiction under Article 227 of the Constitution of India.

7. In the result, both the Civil Revision Petitions are dismissed and there shall be a direction to the Court below to dispose of the suit in O.S.No.189 of 2009 within a period of two months from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

08.12.2022

asi

To

The Principal District Munsif Court,
Kallakurichi.



WEB COPY



CRP (PD) Nos.3185 and 3186 of 2016

N.ANAND VENKATESH, J.

asi

C.R.P (PD) Nos.3185 and 3186 of 2016
and C.M.P.No.16204 of 2016

08.12.2022