



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.03.2022

Coram

The Hon'ble Mr. Justice **C.V.KARTHIKEYAN**

C.R.P.PD.No.2510 of 2017

and

C.M.P.No.11859 of 2017

K.Mohan

... Petitioner / Petitioner / Plaintiff

Vs

1.Rajeswari

2.Chinnasamy

3.Krishnakumari

4.Suguna @ Sukkammal

5.Sureshkumar

... Respondents / Respondent / Defendants

Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order passed in I.A.No.52 of 2017 in O.S.No.4 of 2009 dated 05.04.2017 by the Additional District Munsif, Chidambaram.

For Petitioner .. No appearance

For Respondents .. No appearance



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Even on 28.02.2022 when the matter came up, after perusing the records, I opined that nothing further survives in the Civil Revision Petition for adjudication. Again there is no representation on behalf of the revision petitioner.

2.The revision petitioner is the plaintiff in O.S.No.4 of 2009 which was on the file of the District Munsif Court, Chidambaram. The Civil Revision Petition has been filed questioning an order dated 05.04.2017 passed by the Additional District Munsif, Chidambaram. The suit in O.S.No.4 of 2009, had been filed seeking declaration of title and for recovery of possession of the suit properties.

3.In that particular suit, I.A.No. 52 of 2017 had been filed under Order 26 Rule 10(A) CPC to forward the human materials like, blood, smear, hair, flush etc., for forensic examination of one Chinnasamy who is the 2nd defendant. The said application was dismissed. It had been stated that such test is required, since, legitimacy of Chinnasamy is disputed.

4.The Additional District Munsif, Chidambaram, who had



examined the said application, had noted Section 112 of the Indian Evidence Act, 1872, wherein if a party disputes paternity, then, in order to dispel the presumption non-access must be proved. It had been stated that forwarding human materials for forensic examination would not be necessary and primarily, evidence will have to be let in by the plaintiff. Stating as above, the said application was dismissed.

5.The order under revision stands. It is a well considered order. It is the burden of the petitioner / plaintiff to first establish his case and thereafter, he can seek external evidence to be adduced in the form of opinions of experts.

6.Let the trial commence in the aforesaid suit and a direction is given to the Additional District Munsif, Chidambaram to complete the trial in O.S.No.4 of 2009, on or before 30.09.2022.

7.With the above observations, the present Civil Revision Petition is dismissed. No order as to costs. Consequently, connected Civil Miscellaneous Petition is closed.

09.03.2022

Internet:Yes/No
Index:Yes/No
smv

C.V.KARTHIKEYAN,J.



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To
The Additional District Munsif Court, Chidambaram.

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