



C.R.P (MD) No.1624 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 10.08.2022

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

C.R.P (MD) No.1624 of 2022

and

CMP (MD) No.7067 of 2022

P.Banumatni

... Petitioner

Vs

R.Somasundharam (died)

1.R.Krishnamoorthy

2.R.Ramalakshmi

3.R.Vijaya Bharahi

4.R.Sundar

5.R.Sangareshwari

... Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to allow this Civil Revision Petition setting aside the order dated 28.07.2022 made in I.A.No.271 of 2020 in O.S.No.503 of 2008 on the file of the I Additional Subordinate Court, Madurai.

For Petitioner : Mr.R.G.Shankar Ganesh



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ORDER

As against the order dated 28.07.2022 passed in I.A.No.271 of 2020 in O.S.No.503 of 2008 by the learned I Additional Sub Judge, Madurai, this civil revision petition is filed.

2.The petitioner is the plaintiff in O.S.No.503 of 2008. The said suit was filed for partition. Pending the suit the defendant relied on a Will, said to have been executed by the mother in favour of the defendant. The petitioner filed an application in I.A.No.275 of 2014 for comparing the admitted Left Thumb Impression (in short LTI) found in the document in Ex.B4 [Will] with the LTI found in Exs.A8 and A9 and the same was initially rejected by the trial Court. Challenging the said rejection, the petitioner earlier filed a petition in CRP(MD)No.1294 of 2017, wherein this Court ordered for comparison of the LTI by the expert as prayed for by the petitioner. Accordingly the expert has compared the LTIs and filed a report on 23.01.2020. Therefore, the petitioner in order to mark the said report by examining the



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Superintendent of Police (FP), Tamil Nadu Finger Print Bureau, Chennai -8, has filed an interlocutory application in I.A.No.271 of 2020 on 11.03.2020 which was allowed by the trial Court by order dated 30.06.2022. The petitioner claims that he has paid the batta immediately. The notice has to be served through City Civil Court, Chennai, however, the process of service is not completed. While so, the trial Court citing the pendency of the suit, refused to grant further time and dismissed the application. Aggrieved over the same, the present civil revision petition is filed.

3.It is seen from records that the documents were sent for expert's opinion only pursuant to the orders of this Court in CRP(MD)No.1294 of 2017 and the expert has also filed his report on 23.01.2020, which is now sought to be marked by examining the Superintendent of Police (FP), Tamil Nadu Finger Print Bureau, Chennai -8 in I.A.No.271 of 2022. The said interlocutory application was filed on 17.03.2020 and was dismissed on 30.06.2022. The grievance of the petitioner is that the trial Court has not provided sufficient time to process the service and therefore, prayed for allowing this petition.

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4.This Court is *prima facie* satisfied with the submission of the learned Counsel for the petitioner and is inclined to allow this civil revision petition.

5.In the result, this civil revision petition is allowed. The impugned order is set aside. The trial Court is directed to provide further one month of time to the petitioner to mark the expert's report by examining him. The petitioner shall also take necessary steps in this regard without any further delay. No costs. Consequently connected miscellaneous petition stands closed.

10.08.2022

dsk

Note: Issue order copy on 11.08.2022

To

I Additional Subordinate Judge,
Madurai.



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B.PUGALENDHI, J.

dsk

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