



CRP(PD)(MD)No.2163 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 21.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CRP(PD)(MD)No.2163 of 2022
and
CMP(MD)No.10033 of 2022

1. Gandhi
2. Selvamani

... Petitioners

versus

Rajasekar
Rep. by his Power Agent,
Karuppaiah

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 20.11.2021 in I.A.No.572 of 2021 in O.S.No.17 of 2010 on the file of the District Munsif Court, Aranthangi.

For Petitioners : Mr.K.Baalasundharam
For Respondent : Mr.H.Lakshmishankar
for Mr.R.Prasanna



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ORDER

This Civil Revision Petition is filed against the order dated 20.11.2021 made in I.A.No.572 of 2021 in O.S.No.17 of 2010 on the file of the District Munsif Court, Aranthangi.

2. The petitioners herein have filed a suit in O.S.No.17 of 2010 before the District Munsif Court, Aranthangi, for the relief of declaration and permanent injunction against the respondent herein. When the suit was posted for arguments, at that time, the respondent/2nd defendant has filed an interlocutory application in I.A.No.572 of 2021 in O.S.No.17 of 2010, to refer the document, namely, Ex.B38, for comparison of thumb impression therein, with the admitted thumb impression of the plaintiffs' father in Exs.A1 and A10. The trial Court, by order dated 20.11.2021, allowed the said application. Aggrieved over the same, the present petition is filed.



3. The learned counsel appearing for the petitioners submits that the application in I.A.No.572 of 2021 was filed at the belated stage and the document sought to be compared is an unregistered document and is not having evidentiary value. As per Section 73 of the Evidence Act, the Court itself can verify the thumb impression. However, without invoking the same, at the stage of arguments, the trial Court has mechanically allowed the said application. He further submits that the above application was filed by the respondent with an intention to drag on the suit proceedings.

4. The learned counsel for the respondent submits that the impugned order dated 20.11.2021 is challenged only in the month of October 2022 and in the meantime, the document is also referred for handwriting expert and report is awaited and it will be received in one or two months. He further submits that the document sought to be compared is a document, which has already been marked in O.S.No. 268 of 1987 before the District Munsif Court, Aranthangi and a certified copy of this document has already been marked before this



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Trial Court in O.S.No.17/2010 as Ex.B30. The application for comparing the thumb impression in I.A.No.572 of 2021 was not filed belatedly and it was filed at the time of marking the said document as Ex.B38. Therefore, the contention of the learned counsel for the petitioners that it is filed for dragging on the proceedings, is not correct.

5. This Court considered the rival submissions and perused the materials available on record.

6. The respondent/2nd defendant has filed I.A.No.572 of 2021 under Order 26 Rule 10A CPC to refer the document, namely, Ex.B38, for comparison of thumb impression therein, with the admitted thumb impression of the plaintiffs' father in Exs.A1 and A10. The document Ex.B38 was already marked in O.S.No.268 of 1987 and a certified copy of the document has already been marked in O.S.No.17 of 2010, at the time of defendants side evidence and on the date of marking the document itself, it appears that the respondent/2nd defendant has filed



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the above interlocutory application and thereafter, on the objection of the plaintiffs, the original document was called for and the same was also produced before the Court. On the date of production of original document before the trial Court, the respondent/2nd defendant has filed the above application under Order 26 Rule 10A C.P.C., which was allowed by the trial Court on 20.11.2021. Therefore, the order of the trial Court does not warrant any interference.

7. Accordingly, the Civil Revision Petition is dismissed. It is always open to the petitioners/plaintiffs to raise any question to the respondent/2nd defendant based on the outcome of the report from the Handwriting Experts. No costs. Consequently, connected miscellaneous petition is closed.

21.11.2022

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Index : Yes / No.

Internet : Yes / No.



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B.PUGALENDHI, J.

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To

1. The District Munsif Court,
Aranthangi.

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21.11.2022