



CRP Nos.1363, 1364 & 1365 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.01.2023

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRP.Nos.1363, 1364 & 1365 of 2016
and CMP.No.7604 of 2016

G.Thirunavukarasu

..Petitioner in all CRPs

Vs.

1.Sarala

2.Minor Anbarasi

3.Minor Thenmozhi

..Respondents in all CRPs

[Minors rep. by their mother and
guardian Sarala]

Common prayer: Civil Revision Petitions filed under Article 227 of
Constitution of India, praying to set aside the fair and decreetal order passed in
I.A.Nos.15 of 2013 and I.A.Nos.57 & 58 of 2014 in O.S.No.29 of 2011 on the
file of the Principal District Judge, Vellore, dated 03.09.2015.

(In all the cases)

For Petitioner : Mr.S.William

For Respondents : No appearance

COMMON ORDER

CRP.No.1363 of 2016 has been filed as against the fair and decreetal
order dated 03.09.2015 passed in I.A.No.15 of 2013 in O.S.No.29 of 2011 on



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the file of the Principal District Judge, Vellore, thereby closed the application in view of the dismissal of I.A.Nos.57 and 58 of 2014.

2. CRP.No.1364 of 2016 has been filed as against the fair and decreetal order dated 03.09.2015 passed in I.A.No.57 of 2014 in O.S.No.29 of 2011 on the file of the Principal District Judge, Vellore, thereby dismissing the application filed to produce the original impression register for the document registered vide Doc.No.23 of 1988 Book No.3 and original Volume Register for the document registered vide Doc.No.23 of 1988 Book No.3.

3. CRP.No.1365 of 2016 has been filed as against the fair and decreetal order dated 03.09.2015 passed in I.A.No.58 of 2014 in O.S.No.29 of 2011 on the file of the Principal District Judge, Vellore, thereby dismissing the petition seeking hand writing expert opinion.

4. The petitioner is the plaintiff and the respondents are the defendants in the suit.

5. The petitioner filed a suit for declaration and permanent injunction in respect of the suit schedule property. The petitioner claimed the suit schedule



property on the ground that his grandfather Deivasigamani Mudaliar, when he was alive and was in sound state of mind. He had executed a registered Will on 11.08.1976 in his favour and his brother Thirugnanam namely the husband of the first respondent herein and the other male issues to be born to Gopal Mudaliar equally with a limited estate to enjoy the same till their lifetime and the remainder to their male issues absolutely. Thereafter, the said Deivasigamani Mudaliar died on 12.3.1988. His brother Tirugnanan predeceased his mother Avayammal on 3.5.1999. Therefore, the respondents, being the legal heirs of the deceased Tirugnanam, are not entitled to have any right or interest over the property. The respondents resisted the suit claim by filing written statement and stated that the petitioner's grandfather prepared a Will giving equal share to his grandsons namely the petitioner and the husband of the first respondent herein on 22.11.1986. Hence, without any hand writing expert opinion, it was returned by the Court below.

6. In the meanwhile, the petitioner also filed two applications in I.A.Nos.57 and 58 of 2014, seeking direction to the Sub-Registrar, Gudiyatham, to produce the original impression register for the document registered vide Doc.No.23 of 1988 Book No.3 and original Volume Register for the document registered vide Doc.No.23 of 1988 Book No.3 to compare the said document



with the alleged unregistered Will dated 22.11.1986 since his grandfather Deivasigamani Mudaliar had executed another Will on 01.03.1988 which was registered vide Doc.No.23 of 1988 in the office of the Sub-Registrar, Gudiyatham.

7. The petitioner also filed another I.A.No.58 of 2014 to send those documents along with alleged Will dated 22.11.1986 for comparison and get hand writing expert opinion. Those documents which were sought for by the petitioner are very much available with the Registrar Office, Gudiyatham. In fact, the Court below rightly allowed the application in I.A.No.15 of 2013 sending the alleged Will dated 22.11.1986 for getting hand writing expert opinion and it returned only for the reason that no contemporaneous documents were available to compare the signature. Now the petitioner has come forward with the applications stating that the contemporaneous signature of his grandfather is very much available in the Will dated 01.03.1988 registered vide Doc.No.23 of 1988. However, those applications were dismissed by the Court below for the reason that the petitioner failed to submit the copy of the documents which intends to sent for hand writing expert opinion. Now, the learned counsel for the petitioner would submit that he can produce the certified copy of the document dated 01.03.1988 registered vide Doc.No.23 of 1988.



8. In view of the above, the fair and decreetal order dated 03.09.2015 passed in I.A.Nos.57 and 58 of 2014 in O.S.No.29 of 2011 on the file of the Principal District Judge, Vellore, alone are hereby set aside.

9. Accordingly, the CRP.Nos.1364 and 1365 of 2016 stand allowed since the petitioner filed an application in I.A.No.58 of 2014 seeking a direction to get hand writing expert opinion nothing survives in the order dated 03.09.2015 passed in I.A.No.15 of 2013 in O.S.No.29 of 2011 on the file of the Principal District Judge, Vellore, and accordingly, the CRP.No.1363 of 2016 stands dismissed as infructuous. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

10. It is made clear that the Sub-Registrar, Gudiyatham, is directed to produce the original impression register for the document registered vide Doc.No.23 of 1988 Book No.3 dated 01.03.1988. On receipt of the same, the Court below is directed to appoint an Advocate Commissioner to get hand writing expert opinion. On production of certified copy of the document dated 01.03.1988 registered vide Doc.No.23 of 1988 by the petitioner herein, the Court below shall send the same for hand writing expert opinion. On receipt of the report, the Court below shall dispose of the concerned matter on merits and



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in accordance with law.

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Speaking/Non-speaking order

Index : Yes/No

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G.K.ILANTHIRAIYAN.J.



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To

The Principal District Judge, Vellore.

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