



C.R.P.No.4 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.No.4 of 2018

1.C.Sidhaiyan
2.C.Murugesan

... Petitioners

Vs.

C.Palanivel

... Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair order and decretal orders dated 15.09.2017 passed in I.A.No.385 of 2017 in O.S.No.164 of 2008 on the file of Second Additional District Court, Salem.

For Petitioners : Mr.T.Sezhian

For sole Respondent : Mr.N.Suresh

ORDER

The Civil Revision Petitioners are the defendants 2 and 3. The suit has been filed for declaration of title and for permanent injunction by the



C.R.P.No.4 of 2018

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sole respondent. In the said proceeding, he presented a document under Ex.A2 being a Panchayat Muchalika, dated 18.05.2005. In the said document, the property had been dealt with under Clause No.13. This document was denied by the petitioners. Therefore, the respondent took out an application in I.A.No.385 of 2017 in O.S.No.164 of 2008 for the purpose of comparison of the signatures found in Ex.A2 along with admitted signatures. This was resisted by the Civil Revision Petitioners stating that there was no oral partition and the Panchayat Muchalika ie., projected is not an acceptable one. They would further plead that the subject matter of the dispute has already been settled in O.S.No.176 of 2005 on the file of II Additional District Court, Salem.

2.Rejecting the plea taken by the Civil Revision Petitioners, the application stood allowed. Against which, the present petition has been filed.



C.R.P.No.4 of 2018

WEB COPY

3.Heard Mr.T.Sezhian, learned counsel appearing for the petitioners and Mr.N.Suresh, learned counsel appearing for the respondent.

4.Mr.T.Sezhian. Learned counsel would point out that there is a delay in filing the application. He states that the suit was presented in the year 2008 but till the year 2017, the plaintiff had kept quiet without moving an application for comparison of the documents. It is here I have to point out that it was when the case was posted for DW1 cross examination, the signature that was found under Ex.A2 had been denied. Ex.A2 obviously had been filed by the plaintiff during the course of his examination. The cause of action for filing of an application for hand writing expert would arise only when the signature is denied which had taken place not in the year 2008 but subsequently. For all, we might know the party might have decided on the basis of the written statement not to file a document at all. However, the plaintiff placing strength on Ex.A2 has deposed that the document has also been received in evidence. Insofar as the second ground that there is no necessity for comparison of



C.R.P.No.4 of 2018

the signatures is concerned, I have to take note of the submission of Mr.N.Suresh that the basis of the registered partition deed dated 18.11.2005 entered into between parties was the Panchayat Muchalika, dated 18.12.2002. The base document being challenged, it is but necessary that the genuinity of the same should be found out. Apart from that, the comparison of the signatures in the document dated 18.12.2002 with the admitted documents would not cause any prejudice to the Civil Revision Petitioners.

5. Mr.Sezhian, learned counsel would further contend that this Court should not enter upon any finding with respect to admissibility or otherwise of the document. I agree with him. I am confining this order only with respect to the issue whether the document should be submitted for handwriting expert's opinion or not. Insofar as the relevancy and proof of the document are concerned, it is for the trial Court to adjudicate on the basis of settled principle of law i.e., under Sections 17 and 49 of the Registration Act read with Section 35 of the Stamp Act.



C.R.P.No.4 of 2018

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6. Accordingly, this Civil Revision Petition is dismissed. No costs.

19.09.2023

(2/2)

Index:Yes/No

Speaking Order :Yes/No

Neutral Citation:Yes/No

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To

The II Additional District Judge, Salem.



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C.R.P.No.4 of 2018

V.LAKSHMINARAYANAN,J.

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C.R.P.No.4 of 2018

19.09.2023
(2/2)