



C.R.P.No.2422 of 2023 &
C.M.P.No.15154 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.07.2023

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.R.P.No.2422 of 2023 &
C.M.P.No.15154 of 2023

M.Meganathan

... Petitioner

Vs.

Manickam

...Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and final order of the learned Subordinate Judge, Uthangarai dated 20.03.2023 in I.A.No.3 of 2022 in O.S.No.76 of 2021 and allow the present Civil Revision Petition.

For Petitioner : Mr. V.Nicholas

ORDER

The present Civil Revision Petition has been filed to set aside the fair and final order of the learned Subordinate Judge, Uthangarai dated 20.03.2023 in I.A.No.3 of 2022 in O.S.No.76 of 2021 and allow the present



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Civil Revision Petition.

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2. The brief facts of the case is that petitioner is the plaintiff and the respondent is the 1st defendant in the suit in O.S.No.76 of 2021. The said suit has been filed for partition and separate possession of the petitioner and permanent injunction restraining the respondent herein and defendants 2 and 3 in the suit from alienating and encumbering the suit properties to the 3rd parties. Pending suit, I.A.No.3 of 2022 was filed by the respondent seeking for a DNA Test of the petitioner. Accordingly, the court below has appointed Advocate Commissioner to co-ordinate with the petitioner and respondent for the purpose of DNA Test and to submit a report. Aggrieved against the same, the petitioner has come up with the present petition.

3. The learned counsel for the petitioner would submit that the direction of DNA Test would amount to violation of right of privacy of the petitioner. Further, the mother of the petitioner, namely, Periyakkal died in the year 2013 and even during the subsistence of the marriage with Periyakkal, the respondent had Chinnapapa illegally, therefore, she and her children are not entitled to claim share in the ancestral properties, thereby pleaded to allow the present petition.



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4. Heard the learned counsel for the petitioner and perused the documents placed on record.

5. On going through the documents placed on record, it is seen that the petitioner is claiming partition in the suit mentioned property as against the respondent on the ground that he is the legal heir / son of the respondent. When the respondent denies the paternity of the petitioner, in order to prove that the petitioner is the son / legal heir of the respondent, there is no other way other than the DNA Test, hence, the respondent had sought for a DNA test and the court below has rightly taken note of the circumstances and allowed the said petition, in which, this Court does not find any infirmities in the order dated 20.03.2023 in I.A.No.3 of 2023 in O.S.No.76 of 2021 by the court below.

In view of the above, the present Petition is dismissed at the admission stage. Consequently, connected miscellaneous petition is closed. No costs.

19.07.2023



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Index : Yes/No
Internet : Yes/No
Speaking order / non speaking order
ssd

V.BHAVANI SUBBAROYAN, J.,

ssd

To

The Subordinate Judge, Uthangarai

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