



C.R.P.No.2499 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2023

CORAM:

THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.No.2499 of 2023

and

C.M.P.No.15501 of 2023

1. Kuppu
2. Padmanabhan
3. Subramani
4. Velmurugan
5. Vijayakumar
6. Ramani

... Petitioners

-Vs-

Aandal (deceased)

1. Murugan
2. Mullai
3. Usha
4. Jayamurugan

... Respondents

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and decretal order dated 13.06.2023 passed in I.A.No.709 of 2022 in O.S.No.103 of 2016 on the file of Principal District Munsif at Tindivanam.



C.R.P.No.2499 of 2023

For Petitioners : Ms.C.Jayachitra
For Respondents : Mr.G.Pugazhenthir for R2
No appearance – R1, R3 & R4

ORDER

Challenging the impugned order passed in I.A.No.709 of 2022 in O.S.No.103 of 2016 passed by the learned District Munsif, Tindivanam, the Revision Petitioners/defendants preferred this Civil Revision Petition.

2. Before the trial court, the Respondents/plaintiffs filed an application to issue notice to the respondents/defendants and direct them to produce original documents pertaining to the item Nos. 1 to 3 of the suit properties, alleged that they have purchased the same from Aandal Ammal, before this Court in order to send the same to the handwriting and thumb impression expert through an Advocate Commissioner to find out the signatures and thumb impressions of all the above documents are same or not. Out of three sale deeds, one sale deed is admitted and other sale deeds are disputed. Furthermore, the plaintiffs have also filed three documents dated 01.04.1986, 09.04.1986 and 21.03.1986 respectively. That application was objected by the plaintiff stating that the comparison of signature of Andalammal in all those documents is not necessary, because



C.R.P.No.2499 of 2023

during the life time of Andalammal, a complaint was given by son of Andalammal against the defendants in the suit. Based on that, now the Land Grabbing Wing of Villupuram, wherein the investigating officer obtained signature from Andalammal. On comparing the same with the signature found in the document registered in the Sub-Registrar office was sent to forensic lab and then obtained before 18.06.2016 stating that document Nos.417/1986, 433/1986 and 485/1986 are the signatures of Andalammal. Therefore, already with regard to thumb impression of Andalammal was compared and the report was also filed. Hence, after her demise, there is no necessity to send similar documents for obtaining expert opinion. The trial judge on considering both side submissions, held that comparing the document along with settlement deed dated 08.03.2004 is just and necessary to avoid further complications. Accordingly, that application was allowed. Now, challenging the said findings, the plaintiff preferred this Civil Revision Petition.

3. The learned counsel for Revision Petitioner would submit that the trial judge failed to note of earlier forensic report in respect of Andalammal and again allowing the application for comparison as such is erroneous one. But, the learned counsel for plaintiffs would submit that when the



C.R.P.No.2499 of 2023

dispute is the validity of the document, they are entitled to prove the same as per statutory remedy available with him. Accordingly, he invoked Sec.73 of Indian Evidence Act and filed the said application praying to compare the signature. Further, he would submit that the earlier report obtained by the investigating officer during the pendency of criminal proceedings is not conclusive one, since the evidence recorded during the investigation as such is not permissible. With some restrictions, the main CDR can be produced before the criminal proceedings. Therefore, the statutory remedy is available for them. Hence, he filed the said application and the same was allowed. Accordingly, he prayed to set aside the findings of trial judge.

4. Considering both side submissions, it reveals that while Andalammal was alive, thumb impression was obtained and forensic report was obtained in respect of the document by the investigating officer. But, admittedly, now after filing the suit, the said application was filed to get expert opinion by invoking Sec.73 of Indian Evidence Act to compare the signature, since because he raised objection stating that it is a xerox copy of document, wherein the thumb impression of Andalammal was said to be compared, which cannot be entertained for the reason that by getting



C.R.P.No.2499 of 2023

opinion about the signature, thumb impression or signature of original document alone to be considered and not xerox copy according to the objections raised by the respondents. Therefore, he filed the said application for fresh comparison and the same was entertained. So, on considering the dispute between parties, obtaining the report from an expert as prayed by the plaintiffs would not cause any prejudice to the defendants. Therefore, the findings given by the trial judge permitting to compare the signature of Andalammal found in sale deeds in respect of item Nos.1 to 3 of suit property is confirmed. Accordingly, this Civil Revision Petition is dismissed as no merit. However, the Revision Petitioner is permitted to compare the signature of Andalammal found in the said deed in respect of item Nos.1 to 3 of the suit property. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

29.11.2023

Index : Yes/No
Speaking Order : Yes/No
rpp

To

The District Munsif, Tindivanam.



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C.R.P.No.2499 of 2023

T.V.THAMILSELVI, J.

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C.R.P.No.2499 of 2023

29.11.2023