



C.R.P. No. 2650 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :03.08.2023

CORAM :

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

C.R.P. No. 2650 of 2023

and

C.M.P.No.16384 of 2023

Kannusamy

...Petitioner

.Vs.

1.Rengasamy

2. Dhanavel

...Respondents

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the order and decree dated 08.06.2023 in I.A.No.4 of 2022 in O.S.No.304 of 2011 pending disposal on the file of the Additional District Munsif Court, Perambalur.

For Petitioner : Mr. M. Manivannan

ORDER

This petition is filed to set aside the order and decree dated 08.06.2023 in I.A.No.4 of 2022 in O.S.No.304 of 2011 pending disposal on the file of the Additional District Munsif Court, Perambalur.

2. The case of the petitioner herein is that the respondents



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herein filed I.A.No.4 of 2022 in O.S.No.304 of 2011 under Order 26 Rule 10A and Section 45 Read with Section 151 of Civil Procedure Code to appoint an Advocate Commissioner to compare the thumb impression of the petitioner and the defendants mother deceased Periyammal in Ex.A.10 and Ex.B1 by sending both the documents to finger print bureau and the same was allowed by the learned Judge vide order dated 08.06.2023. Aggrieved over the same, the petitioner has come up with this petition.

3. The learned counsel for the petitioner submitted that the respondents has filed the above I.A simply to drag the proceedings. The suit is of the year 2011 and they have filed the I.A only after a lapse of 10 years, which is not acceptable. Hence prays to allow this petition.

4. On going through the impugned order it is seen that the above I.A was filed to compare the thumb impression of the respondents mother deceased Periyammal and the petitioner in Ex.A.10 and Ex.B1 by sending both the documents to finger print bureau and the learned Judge after perusing all the materials had made an observation that Ex.A.10 is the disputed document and Ex.B1 is the admitted document.



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Further there was dispute with regard to genuinity of Ex.A.10 and the petitioner herein claim right over the share in the subject property only by virtue of the said disputed settlement deed/ Ex.A.10. Hence it is necessary to appoint an Advocate Commissioner for comparing the signatures and allowed the I.A. which finding in the considered view of this Court cannot be brushed aside easily. Therefore, there is no necessity to interfere with the impugned order passed by the Court below.

5. In view of the above, the order passed on 08.06.2023 in I.A.No.4 of 2022 in O.S.No.304 of 2011 on the file of the Additional District Munisif Court, Perambalur is confirmed. Accordingly this Civil Revision Petition is dismissed. No order as to costs. Consequently, the connected miscellaneous petition is closed.

03.08.2023

smn

Index : Yes/No

Internet: Yes/No

To.

The Additional District Munisif Court, Perambalur.



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V.BHAVANI SUBBAROYAN,J.
Smn

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