



C.R.P.Nos.3721 and 3722 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.Nos.3721 and 3722 of 2019

and

C.M.P.No.24431 of 2019

R.Appusamy

.. Petitioner in both CRPs

Vs.

1.S.P.Murugesan

2.Rajammal

3.Ravikumar

4.Sivabalan

.. Respondents in both CRPs

PRAYER in CRP.No.3721 of 2019 : Civil Revision Petition is filed under article 227 of Constitution of India, to set aside the fair and final order, dated 06.07.2019 made in I.A.No.649 of 2018 in O.S.No.220 of 2011 on the file of Additional District Munsif Court, Tiruchengode.



C.R.P.Nos.3721 and 3722 of 2019

PRAYER in CRP.No.3722 of 2019 : Civil Revision Petition is filed under article 227 of Constitution of India, to set aside the fair and final order, dated 06.07.2019 made in I.A.No.648 of 2018 in O.S.No.220 of 2011 on the file of Additional District Munsif Court, Tiruchengode.

For Petitioner : Mr.P.Saravana Sowmiyan
(in both CRPs)

For Respondents : Mr.E.P.Senniyangiri (for R1 to R3)

: Served, No Appearance (for R4)
(in both CRPs)

COMMON ORDER

The Civil Revision Petition arises against the dismissal of petitions filed in O.S.No.220 of 2011.

2. O.S.No.220 of 2011 is a suit for declaring the plaintiff as an absolute owner of the second item in the suit property and for direction to the 1st defendant to handover the possession of the said item. He also sought for mandatory injunction to dismantle the barred offences put up around the second item in the suit property. There are also other consequential reliefs.

3. In this suit, the petitioner/plaintiff filed an application under



C.R.P.Nos.3721 and 3722 of 2019

Rule 75 of the Civil Rules of Practice. The purpose of this application was to send the L.T.I. (Left Thumb Impression) of one Angammal for comparison. The plaintiff R.Appusamy says, the said Angammal has sold the property to him. He wanted this L.T.I. (Left Thumb Impression) to be compared along with the admitted L.T.I. (Left Thumb Impression) of Angammal in document No.1186 of 1973, dated 04.06.1973. This application under Rule 75 of Civil Rules of Practice came to be allowed. Pursuant to the order, the Sub-Registrar came to the Court and had stated that such documents are voluminous and he will not be in a position to submit the same to the Court but gave an undertaking to produce the same as when it is sought for.

3. Thereafter, the plaintiff/petitioner took two applications in I.A.Nos.648 of 2018 and 649 of 2018 seeking for photographs to be taken of all the documents produced by the Sub-Registrar and to send the same to forensic experts. The other relief was for appointment of an Advocate Commissioner to take photographs of the admitted thumb impression and the disputed thumb impression and get a report from the



C.R.P.Nos.3721 and 3722 of 2019

Forensic Science Department, Chennai. These applications were stiffly resisted by the defendants. By an order dated 06.07.2019, both the applications came to be dismissed. These orders are challenged before me.

4. I heard both the learned counsel for the petitioner and the learned counsel for the respondent. It is not in dispute that the documents were summoned by the Court from the file of the Sub-Registrar. It is also not in dispute that the said Registrar has given an undertaking to the Court that he shall produce the documents as and when it is required. The purpose of summoning the document is to compare the L.T.I. (Left Thumb Impression) of Angammal, the vendor of the plaintiff, found in the admitted document of the year 1973 along with the disputed document in favour of the plaintiff.

5. Comparison of the thumb impression requires certain experts and it is available in the Forensic Science Department at Chennai. The Court though empowered to compare the hand writing and thumb impression, it is always advisable to get a report from the expert as held



C.R.P.Nos.3721 and 3722 of 2019

by the Supreme Court in *Thiruvengada Pillai vs Navaneethammal & Another (2008) 4 SCC 530 case*.

6. In the case on hand, the Court had summoned the document but it has not been sent to any expert opinion. The purpose of summoning those documents itself is to send it for expert opinion, is defeated by the dismissal of the petitions. Therefore, the order passed in I.A.Nos.648 and 649 of 2018 in O.S.No.220 of 2011, dated 06.07.2019, is set aside.

7. Here, I have to take note of the serious objections raised by Mr.E.P.Senniyangiri, learned counsel appearing for the respondent that if the petitioner is permitted to take photographs and that will be sent for comparison, it will not be in accordance with law. A party cannot take photographs and then ask for such photographs to be sent for comparison, that prayer has to be suitably modified.

8. The learned Additional District Munsif is requested to appoint an Advocate Commissioner for the following :

- i. to take clear photographs of the L.T.I. (Left Thumb Impression) of Angammal found in the document No. 1186 of 1973, dated



C.R.P.Nos.3721 and 3722 of 2019

04.06.1973 and to take legible photographs of the disputed thumb impression

ii. Thereafter he shall take both the photographs to the Forensic Science Department and obtain a report from them.

9. It is made clear that the Advocate Commissioner must do the exercise under the supervision of the Court.

10. After the receipt of the report, the learned Judge is requested to dispose of the suit within a period of nine (9) months. With the above directions, both the Civil Revision Petitions are allowed. No costs. Consequently, connected miscellaneous petition is closed.

15.09.2023

Index: Yes/No
Speaking Order : Yes/No
Neutral Citation: Yes/No
VEDA/MKN2

To
The Additional District Munsif Court,
Tiruchengode.



WEB COPY



C.R.P.Nos.3721 and 3722 of 2019

V.LAKSHMINARAYANAN,J.

VEDA/MKN2

C.R.P.Nos.3721 and 3722 of 2019
and
C.M.P.No.24431 of 2019

15.09.2023