WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.01.2023

CORAM

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

C.R.P.No.2452 of 2017 and
C.M.P.No.11562 of 2017

P.A.Ganesan .. Petitioner

vs

M.Neil Selvakumar .. Respondent

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the order dated 07.04.2017 made in I.A.No.337 of 2017 in O.S.No.786 of 2009 on the file of II Additional District Court, Tiruppur.

For Petitioner : Mr.R.Krishna Prasad

For Respondent : No Appearance

https://www.mhc.tn.gov.in/judis

WEB COPY

ORDER

The civil revision petition has been filed by the sixth defendant in the suit challenging the fair and decreetal order passed in I.A.No.337 of 2017 in O.S.No.786 of 2009 dated 07.04.2017, dismissing the application filed under Rule 75 of the Civil Rule of Practice seeking for a living certificate from the Sub-Treasury Office, Tiruvallur and to send those document for comparison with the signatures found in the disputed documents for expert opinion.

2. The respondent filed a suit in O.S.No.786 of 2009 seeking for the relief of partition and for allotment of one third share in the suit property. Pending the suit, an application was filed by the petitioner / sixth defendant in I.A.No.446 of 2014 under Section 45 of the Evidence Act for comparison of the signature found in the life certificate of one Joy Metilda with the disputed documents and to get an expert opinion.

https://www.mhc.tn.gov.in/judis

WEB COPY

3. This application came to be dismissed by order dated 08.04.2014 and the same became the subject matter of challenge before this Court in C.R.P.No.2104 of 2014.

4. This Court disposed of the civil revision petition with the following directions :

> *" 6. The learned II Additional District Judge, Tiruppur, is directed to give three weeks time to the petitioner to produce the certified copy of the Life Certificate from the Sub Treasury, Tiruppur. In case, the same is produced, necessarily, the original should be summoned from the Sub Treasury, Tiruppur, for the purpose of comparison. In case, the petitioner fails to produce the document, with in the time granted by this Court, the application in I.A.No.446 of 2014 will be closed and the matter will be decided on the basis of available materials."*

https://www.mhc.tn.gov.in/judis

WEB COPY

5. While so, the petitioner once again filed an application for almost a same relief, wherein, the petitioner had sought for issuing a subpoena to the Sub-Treasury, Tiruppur for the purpose of securing the life certificate of the deceased Joy Metilda.

6. The Court below on considering the relevant contentions, dismissed the application by order dated 07.04.2017. Aggrieved by the same, the present civil revision petition has been filed before this Court.

7. Heard Mr.R.Krishna Prasad for the petitioner. The respondent has been served with notice and the name of the respondent has also been printed in the cause list and there is no representation for the respondent either in-person or through counsel.

8. The petitioner is a subsequent purchaser of the suit property from the first defendant. The first defendant had taken a stand that he is the absolute

https://www.mhc.tn.gov.in/judis

WEB COPY

owner of the suit property by virtue of a Will executed in his favour by Tmt.Joy Mitilda.

9. This Will is the disputed document in this case. Earlier, an application was filed by the petitioner in I.A.No.446 of 2014 to compare the signature of Joy Metilda found in the life certificate with the signature found in the Will and to get an expert opinion. The application was dismissed and the civil revision petition was filed before this Court and this Court, in order to afford an opportunity to the petitioner, directed the petitioner to produce the certified copy of the life certificate from the Sub-Treasury, Tiruppur within a stipulated period and if the same is produced before the Court below, the Court below was directed to send the life certificate along with the Will for comparison and for obtaining expert opinion. It was also made very clear that if the petitioner fails to produce the document, the Court below was directed to close the application and to proceed further on the basis of available materials.

https://www.mhc.tn.gov.in/judis

WEB COPY

10. Admittedly, the petitioner was not able to produce the life certificate and therefore, the consequence of the same should follow as per the earlier order passed by this Court in C.R.P(PD).No.2106 of 2014. The petitioner cannot be allowed to once again agitate this issue by filing an application for issuing a subpoena to the Sub-Treasury Office to produce the life certificate of the deceased Joy Metilda. On carefully going through the order passed by the Court below, it is seen that the life certificate was sought for even without providing the necessary details and hence, the Sub-Treasury Office was not able to provide any details during the earlier occasion.

11. In the light of the above discussion, this Court does not find any illegality or infirmity in the order passed by the Court below and the same does not require the interference of this Court in exercise of its jurisdiction under Article 227 of the Constitution of India.

https://www.mhc.tn.gov.in/judis

WEB COPY

12. In the result, the civil revision petition fails and accordingly, the same is dismissed. The Court below is directed to complete the proceedings in O.S.No.786 of 2009 within a period of four months from the date of receipt of a copy of this order and report compliance. There will be no order as to costs.

12.01.2023

Speaking Order/Non-Speaking Order.
Internet : Yes/No.
Index: Yes/No.
Neutral Citation: Yes/No
drm

To

1.The II Additional District Court, Tiruppur.

https://www.mhc.tn.gov.in/judis

WEB COPY

N.ANAND VENKATESH, J.
drm

C.R.P.No.2452 of 2017 and
C.M.P.No.11562 of 2017

12.01.2023

https://www.mhc.tn.gov.in/judis