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C.R.P.No.4060 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 06.02.2023**

CORAM

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM**

**C.R.P.No.4060 of 2022**

**and**

**C.M.P.No.21050 of 2022**

1.Annappan

2.Thaanthoni

3.Kumari

... Petitioners

Vs.

Vinothkumar

... Respondent

**Prayer:** Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the Fair and Final order dated 14.09.2022 made in I.A.No.1 of 2022 in O.S.No.158 of 2017 on the file of the learned Additional District Munsif Court, Cheyyar, Thiruvannamalai District.

For Petitioners

: Mr.R.Vasudevan

For Respondent

: Mr.K.G.Senthil Kumar



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## **ORDER**

The Civil Revision Petition is filed against the Fair and Decretal order dated 14.09.2022 passed in I.A.No.1 of 2022 in O.S.No.158 of 2017.

2. The revision petitioners are the plaintiffs, who instituted a Suit for Declaration to declare that they are the Clause-II Legal Heirs of one deceased Vemban.

3. The revision petitioners / plaintiffs filed Interlocutory Application in I.A.No.1 of 2022 for DNA Test to be conducted with Mr. Vinothkumar / 1<sup>st</sup> defendant in the Suit.

4. The learned counsel for the revision petitioner states that Mr.Vinoth Kumar / 1<sup>st</sup> respondent claims himself as the son of the deceased Vemban. The Complaint was filed with the cause-title that Mr.Vinoth Kumar is the son of Mr.Selvaraj and he has not taken any steps even to amend the name of his father.



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5. That apart, Mr.Vinoth Kumar / 1<sup>st</sup> respondent has not filed the Legal Heir certificate issued by the Competent Authority. In the absence of any such valid Legal Heir certificate, stating that Mr.Vinoth Kumar is the son of the deceased Vemban, sending him for DNA Test becomes unnecessary.

6. Parties are bound to establish their cases through documents and evidences at the first instance. If at all any doubt arises or further clarification is required, then alone such expert reports are required and not otherwise.

7. Court need not appoint an Advocate Commissioner, send documents to handwriting expert or send persons for DNA examination unnecessarily without any *prima facie* case established by anyone of the party. The defendant has not even filed the Legal Heir certificate, which is a primary document to establish, then there is no necessity for DNA Examination and thus, the Trial Court shall adjudicate the issues on merits and in accordance with law based on the documents and evidences produced by the respective parties to the Suit.



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8. In the present case, the Trial Court has elaborately considered the grounds in this regard and formed an opinion that the DNA Test is not required in view of the facts and circumstances established between the parties in the Suit.

9. Thus, this Court do not find any infirmity in respect of the findings. Accordingly, the Fair and Decretal order dated 14.09.2022 passed in I.A.No.1 of 2022 in O.S.No.158 of 2017 stands confirmed and the Civil Revision Petition in C.R.P.No.4060 of 2022 stands dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

**06.02.2023**

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Index : Yes  
Speaking order  
Neutral Citation : Yes

To

The Judge,  
Additional District Munsif,  
Cheyyar,  
Thiruvannamalai District.



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**S.M.SUBRAMANIAM, J.**

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