



C.R.P.(PD)Nos.2957 & 2958 of 2019

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.08.2023

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.(PD).Nos.2957 & 2958 of 2019
and CMP.No.19118 of 2019

Subramani (Died)

1.Sumathi

2.Geethanjali

3.Monisha

4.Sarasumani

5.C.Thangaraj

.. Petitioners in both CRPs

(Petitioners 1 to 5 are impleaded by order of this Court

dated 10.08.2023 in CMP.Nos.18243, 18248, 18249, 18251,

18254 & 18257 of 2023 in CRP(PD)Nos.2957 & 2958 of 2019)

vs

1.Chinnasamy @ Chinnapavelar

2.Palaniammal

.. Respondents in both CRPs

Petitions filed under Article 227 of the Constitution of India against the fair and decreetal order dated 05.06.2018 made in I.A.Nos.161 and 160 of 2017 in O.S.No.408 of 2017 on the file of the Sub Court, Kangeyam.

(In both CRPs)

For Petitioners : Mr.N.Ponraj

For Respondents : No Appearance



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COMMON ORDER

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The petitioners claim the property by way of a Will dated 18.04.2004. The defendant filed a written statement pleading that the document is a forgery. In order to prove that it is not a forgery, the plaintiff took out an application under Rule 76 of Civil Rules of Practice for the purpose of sending the document to handwriting expert and thumb impression expert to prove that the document had been executed by the deceased Unnamalaiammal in favour of the plaintiff Subramani.

2.The learned trial Judge dismissed the application holding that, the manner of proof of a Will, should be in accordance with the Indian Evidence Act and Indian Succession Act.

3.The manner of proof of a Will is, on the basis of examination of atleast one of the attesting witness, to the Will. The document, if it is sent for handwriting expert will not prove the Will at all, because that is not requirement either under the Indian Evidence Act or under the Indian Succession Act. It is for the plaintiff to prove the Will on the basis of examination of the attesting witness. The handwriting expert or the finger print expert would not make much of difference even assuming that the same had been signed by Unnamalaiammal, but if the attestation has not proved.



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4.The learned counsel appearing for the petitioners would state that as of now the proceeding pending is cross examination of PW1. He assures the Court that he will examine the attesting witness. If the attesting witnesses are examined and the Will is proved, nothing more is needed to be done by the plaintiff to substantiate the Will. Therefore, the application for examination of handwriting expert is unnecessary. Therefore, the dismissal of application is upheld. Both the civil revision petitions are dismissed. No costs. Consequently, connected miscellaneous petition is closed.

10.08.2023
(2/2)

Index: Yes/No

Speaking order/Non-speaking order

Neutral Citation: Yes/No

vs

To

The Sub Court,
Kangeyam.



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V. LAKSHMINARAYANAN,J.

VS

**C.R.P.(PD).Nos.2957 & 2958 of 2019
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**10.08.2023
(2/2)**