



C.R.P.(MD) No.1278 of 2021

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THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.08.2023

CORAM:

**THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN
THILAKAVADI**

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1.Muthukrishnan

2.Perumalakkal

3.Pampuluchettiar

4.Veluchamy

5.Natarajan

6.Maheswari

7.Vadivelan

8.Murali

9.Nagajothi

(2 to 9 petitioners are represented by first
petitioner as their power agent)

... Petitioners

Vs.

1.Chinnammal

2.Ponraj

3.Rajkumar

... Respondents



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Prayer :- Petition filed under Article 227 of the Constitution of India, to call for the records in fair and decreetal order dated 22.08.2019 in I.A.No.1 of 2019 in O.S.No.69 of 2017 passed by the Additional District Munsif Court, Aruppukottai and set aside the same.

For Petitioner : Mr.A.Srinivasan

For R1 & R2 : Mr.S.Parthasarathy

ORDER

The above revision is preferred as against the order dated 22.08.2019 passed in I.A.No.1 of 2019 in O.S.No.69 of 2017 on the file of the Additional District Munsif Court, Aruppukottai.

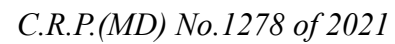
2. The petitioners herein as plaintiffs filed a suit in O.S.No.69 of 2019 for declaration of title and consequential relief of permanent injunction alongwith the prayer to declare the sale deed dated 20.09.1999 as null and void. During the pendency of the above suit, the petitioners have filed an application in I.A.No.01 of 2019 under Section 45 of the Indian Evidence Act and Order 26 Rule 10A and Section 151 of CPC for comparison of disputed signature with the signature found in the



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document alleged to have been executed by the father of the petitioner dated 16.08.1973. However, the respondents herein objected the said document by stating that the said document is not an admitted document. The trial Court, upon considering the submissions made by the parties, dismissed the above application stating that the disputed signature must be compared only with the admitted signature. Since there is no admitted signature as contended by the respondents, the petition filed by the petitioners should not be entertained. Aggrieved by this, the present revision is filed.

3. The learned counsel appearing for the petitioners would contend that the mere objection made by the respondents that the document intended to compare the thumb impression with that of the disputed document, cannot be a ground for dismissing the application filed by the petitioners. He would further submit that the said document was executed in the year 1973 by the petitioner's father, which can be compared with the disputed document. He would further submit that the trial Court ought to have permitted the petitioner to let in evidence with



4. The learned counsel for the respondents submitted that there are admitted documents said to have been executed by the father of the petitioners in favour of M/s.India Cements Limited, dated 24.09.1993 and 11.08.1999, which can be compared with the disputed document, for which, there is no serious objection on the side of the petitioners.

5. Considering the above, the order dated 22.08.2019 passed in I.A.No.1 of 2019 in O.S.No.69 of 2017 on the file of the Additional District Munsif Court, Aruppukottai, is set aside and the matter is remitted back to the trial Court to give an opportunity to the petitioners/plaintiffs to let in evidence with regard to the document 16.08.1973 as to whether the signature found in the said document belongs to the father of the petitioners and if the trial Court finds it there



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is a sufficient evidence that the said document was executed by the father of the petitioners, then the trial Court can forward the document along with other two documents mentioned by the learned counsel for the respondents for comparison with the disputed signature found in the impugned sale deed. The trial Court has to summon the Sub Registrar, Panthalgudi, to produce the Thump Impression Register maintained by him, which, according to the respondents, contains the thump impression of the father of the petitioners and also permit the respondents/defendants to summon the original documents under the custody of the M/s.India Cements Limited. The said exercise shall be completed within a period of one month from the date of receipt of a copy of this order.

6. In the result, this civil revision petition is allowed. No costs. consequently, connected miscellaneous petition is closed.

11.08.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes
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K.GOVINDARAJAN THILAKAVADI, J.

cp

To

The Additional District Munsif,
Aruppukottai.

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11.08.2023