



CRP No.593 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2024

CORAM

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

CRP No.593 of 2024 and
CMP No.2932 of 2024

1. N.Santhakumari
2. N.Rajasulochana

... Petitioners

/vs/

1.Malini @ Mala,
rep. by her power agent R.Mohandass

2. R. Rooban

... Respondents

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order made in unnumbered I.A. in O.S.No.277/2008, dated 15.12.2023, by the II Additional Sub Judge, Coimbatore.

For Petitioners

... Mr.A.E.Ravichandran



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ORDER

WEB COPY This civil revision petition has been filed to set aside the order made in unnumbered I.A. in O.S.No.277/2008, dated 15.12.2023, by the II Additional Sub Judge, Coimbatore.

2. The petitioners herein are the plaintiffs and the respondents herein are the defendants 1 & 2 in the above said suit, which was filed for partition of the suit property; declaration that the release deed dated 3.12.2001 as null and void; and permanent injunction restraining the first defendant from alienating or encumbering the item No.1 & 2 of the suit properties. In the above said suit, the first petitioner /first plaintiff was examined as PW1, and after cross examination, the petitioners have filed a petition to summon the Managers of the Indian Overseas bank, Main branch, Coimbatore and also the Indian Overseas bank, Gandhipuram Branch, Cross cut Road branch Coimbatore, to produce the specimen signatures of late Jayachandran, maintained in their bank accounts. The above petition was dismissed at the SR stage itself. Hence this civil revision petition has been filed.



3. Heard the learned counsel for the petitioners and I have perused the materials on record.

4. A perusal of the records shows that, the petitioners herein are sisters and the first respondent/first defendant is wife of deceased the Jayachandran. According to them, their brother Jeyachandran died intestate and issueless and hence, they filed the suit for partition of the suit properties, belonged to Jayachandran,. In the suit, the first petitioner herein was examined as PW1. According to the petitioners, during cross examination of PW1, the signatures of Jayachandan in some other documents, along with the signature found in the Will, were shown to her, and the Will was marked as document, as if she admitted the document, which was later objected by her. Therefore, to prove that the signature of deceased Jayachandran, found in the Will is forged one, the petitioners have filed the above petition.

5. It is to be noted that, though the first petitioner/PW1 has admitted the signature of the deceased Jayachandran, found in the Will, it cannot be construed that the Will has been proved. But, the first respondent/ first defendant is bound to prove the Will, as contemplated under Section 68 of



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Indian Evidence Act as well as the Indian Succession Act. In such circumstances, summoning the bank managers to produce the specimen signature of the deceased Jayachandran, maintained in their bank account is not warranted. Therefore, this court is of the view that, the trial court has rightly rejected the petition, at the SR stage itself and I find no infirmity in the impugned order to interfere over the same. As such, the civil revision petition is liable to be dismissed, as it has no merits.

6. At this juncture, the learned counsel for the petitioner seeks liberty to produce all the evidence with regard to the Will of the deceased Jayachandran, before the Trial Court.

7. Accordingly, this civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed. Liberty is granted to the petitioners to place all the available evidence with regard to the Will before the Trial Court.

27.02.2024

Index : Yes/No
Internet : Yes/No
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To
The XII Additional Sub Judge, Coimbatore.



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V.SIVAGNANAM ,J.

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