



C.R.P.(PD)No.2791 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.08.2024

CORAM

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD)No.2791 of 2024

and

C.M.P.Nos.14826 & 14828 of 2024

1.Mandiriappan

Nachimuthu (Died)

2.Thangavelsamy

3.Subbulakshmi

4.Ramesh

5.Selvi

.. Petitioners

Vs.

1.Subramaniam

2.Dharmaraj

.. Respondents

Prayer : The Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the order of the District Munsif Court, Sulur made in I.A.No.211 of 2024 in O.S.No.334 of 2017 dated 14.03.2024.

For Petitioners : Mr.J.Chandran Sundar Sashikumar
for Mr.S.Sithirai Anandam



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ORDER

The present Civil Revision Petition arises against an order passed by the learned District Munsif at Suler in I.A.No.211 of 2024 in O.S.No.334 of 2017 dated 14.03.2024.

2. The civil revision petitioners are the plaintiffs in the suit.

3. O.S.No.334 of 2017 is a suit for partition. Originally, it was presented as O.S.No.166 of 2001 on the file of the learned Principal District Munsif at Palladam.

4. The claim of the plaintiffs is that the ancestor of the plaintiffs' vendors had purchased a property and thereafter, the said vendors had alienated the same in their favour on 08.10.2001. The defendants, according to them, are sharers in the property and hence, they issued the notice seeking partition of their 2/3rd share. Since it remained unsatisfied, a suit was filed seeking partition and consequential reliefs.

5. On service of summons in the suit, the defendants entered



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appearance and filed a detailed written statement.

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6. According to them, the predecessors in title of the suit properties, namely one Muthugounder and one Arunachalagounder, who are the sons of Marappagounder, had died issueless. Therefore, they would plead that the sale deed, dated 08.10.2001, on the basis of which the plaintiffs' claim 2/3rd shares, is a fabricated and a forged document. They would also state that it was on the basis of this document the Chitta, Patta, Adangal and Patta passbook were mutated, and since the mutation is based on a fabricated document, none of the revenue records helps the case of the plaintiffs.

7. Subsequent to this suit travelled from Palladam to Sulur, and at the stage of defendants' evidence, who had marked Ex.B1 to Ex.B14, an application was taken out to compare the signatures and the thumb impression of the vendors found on the sale deed, dated 08.10.2001, with Ex.A6 and Ex.B3, which are also registered documents.

8. The learned trial Judge allowed the application, and appointed an Advocate Commissioner to take the documents to the Forensic Science



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Laboratory at Chennai and to obtain a report. Against which, the present civil revision petition has been presented before this Court.

9. Heard Mr.J.Chandran Sundar Sashikumar, for Mr.S.Sithirai Anandam, appearing on behalf of the petitioners.

10. Mr.J.Chandran Sundar Sashikumar would state that the suit had been filed in the year 2001, but the application had been filed only in the year 2024, and would state that the long delay in filing the application prejudices the plaintiffs. I would certainly agree with him, had it been the comparison of the signatures. The signatures are bound to change between the year 1979 and 2001. However, the thumb impression once it has been formed, does not change till the death of a person. The thumb impression remains static through out the life of a person.

11. In *Thiruvengada Pillai vs. Navaneethammal & Another [(2008) 4 SCC 530]*, the Supreme Court held in categorical terms that a thumb impression should not be compared by the Courts, in exercise of the powers under Section 73 of the Indian Evidence Act. It directed the Courts should



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take an opinion of an expert in that field under Section 45 of the said Act.

Hence, I am not inclined to non-suit the respondents in their application seeking forensic expert only on the ground of delay.

12. In case the report of the expert goes against the civil revision petitioners, they are always entitled to summon him and cross examine him in order to substantiate their case. Merely because they plead that their document is genuine, I am not inclined to be swayed by the said submission and reject the application for examination of forensic expert.

13. In the light of the above discussion, the Civil Revision Petition stands dismissed. No costs. Consequently, the connected Civil Miscellaneous Petitions are closed.

05.08.2024

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Index:Yes/No

Speaking Order :Yes/No

Neutral Citation:Yes/No



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V. LAKSHMINARAYANAN, J.

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To

The learned District Munsif,
Sulur

C.R.P.(PD)No.2791 of 2024
and
C.M.P.Nos.14826 & 14828 of 2024



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