



C.R.P.(PD).No.4044 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2024

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CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(PD).No.4044 of 2019

1A.Mangalagowari

2.Lalitha

... Petitioners

VS

1.Geetha

2.Balaji (Alias) Manikandan

3.Kesavan

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order passed in I.A.No.2 of 2019 in O.S.No.17 of 2013 on the file of the Subordinate Judge, Gobichettipalayam on 1.11.2019.

For Petitioners : Mr.G.Ravi Shankar

For Respondents : Mr.N.Chinnaraj

ORDER

The Civil Revision Petition is filed challenging the order passed by the Court below dismissing the application filed by the petitioners seeking to send Ex.B1-Will for expert opinion to ascertain the age of the signature and the recitals found thereon.



2. The petitioners herein filed a suit for partition and injunction against the respondents. The suit was resisted by the respondents based on a Will executed by one K.V.Dhandapani Chettiyar in favour of respondents 2 and 3. The said document was marked as Ex.B1 on behalf of the respondents. It is the case of the petitioners that Will is a concocted document. It is the case of the specific case of the petitioners that the body of the Will was prepared subsequent to the date of Will. Therefore, the petitioners filed an application to send the disputed Will to expert opinion to find out whether the signature and other recitals found in the Will were made on same day or on different occasions. The said application was dismissed by the Court below on the ground that as of now, there was no technology available to determine the age of the ink used in the document and in such circumstances, the prayer made by the petitioners to find out the age of the recitals and the signature found in the Will could not be accepted. The Trial Court also observed that the petitioners have not produced any contemporaneous document for comparison. Aggrieved by the same, the petitioners are before this Court.



3. The learned counsel appearing for the petitioners by relying on the judgement of the Telangana High Court in ***J.Purushottam vs. The State of Telangana (Order made in Crl.RC.No.2363 of 2018, dated 22.02.2019)*** and the judgement of the Bombay High Court in ***Mohinder Babulalji Bakharia vs. Arun Kondibarao Dapkekar and another (Order made in Review Application (Civil) No.198 of 2019 in Writ Petition No.9454 of 2019, dated 25.09.2019)*** submitted that the said High Courts entertained similar application for determination of age of the ink.

4. This Court in ***R.Jagadeesan vs. N.Ayyasamy*** reported in ***2010 (2) MLJ (Crl) 659***, dismissed the applications seeking expert opinion for determination of age of the ink mainly on the ground that there was no scientific method available to determine the age of the ink. The relevant observation of this Court reads as follows:-

“10. In my considered opinion, a careful reading of the said Judgment would also go to show that there was no occasion for the learned Judge to answer the question as to whether there is any expert available in terms of Section 45 of the Evidence Act to offer any opinion regarding the age of the



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document. The entire case proceeded under the premise as though there are experts to offer opinion regarding the age of the documents. Now, as I have already stated, the Head of the Department of Forensic Science is before me and from whom I have the benefit of ascertaining that there is no expert in the field and also that all such documents sent already were returned without offering any opinion. Therefore, the said Judgment also would not come to the help of the respondents.

11. In view of all the above, the revisions are allowed and the impugned orders of the learned Magistrate are set aside and the request for sending the documents for ascertaining the age of the writings is rejected. Connected miscellaneous petitions are closed. The services rendered by the Assistant Director is appreciated.”

5. When the matter was came up for hearing before this Court on 05.02.2024, this Court directed Mr.V.Jeevagiridharan, learned Additional Government Pleader, who was present in the Court, to get instructions from the Directorate of Forensic Sciences Department, Chennai with regard to the question whether technology is available as on today to determine the age of the ink found in a document.



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6. As per the direction issued by this Court, Mr.V.Jeevagiridharan, learned Additional Government Pleader obtained a written instruction from the Director of Forensic Sciences Department, Chennai - 600 004 and the scanned copy of the said letter is reproduced hereunder:-

From:	To:
Mr. L. Vijayalatha, M.Sc., Director (I/c), Forensic Sciences Department, Mylapore, Chennai - 600 004.	The Additional Government Pleader (CS), State Government Pleader Office, Madras High Court, Chennai - 600 004.
I.No.46803/2024	Dated: 14.02.2024
Respected Sir / Madam,	
Sub : Document Division - Age of the Ink Determination - Reg.	
Ref : Your letter No. MFD/GP/US/2024/145 dated 06.02.2024 (C.R.P.No. 4044 of 2019)	
With reference to your letter cited with regard to the questionnaire raised by the Honourable Mr. Justice S. SOUNDEJAN, "Whether technology is available as on today to determine the age of the ink found in a document". In this connection, I humbly submit that "there is no reliable scientific technique available to determine the age of the ink in a document".	
This is for your favour of information.	
14.02.2024 DIRECTOR (I/c)	



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7. Therefore, as per the letter received from the Director of Forensic

Sciences Department, Chennai - 600 004, as on today, there is no reliable scientific technology available to determine the age of the ink in a document.

In such circumstances, the prayer sought for by the petitioners to determine the age of the signature and other recitals found in the Will in order to decide whether both were made on the same day cannot be accepted. The Trial Court rightly dismissed the application filed by the petitioners and the same requires no interference.

8. Hence, the Civil Revision Petition is dismissed. No costs.

19.02.2024

Index : Yes
Speaking order : Yes
Neutral Citation : Yes
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To

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The Subordinate Judge,
Gobichettipalayam.



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S.SOUNTHAR, J.

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