



C.R.P.(MD).No.1191 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P.(MD)No.1191 of 2019

and

C.M.P(MD) No.6647 of 2019

Madathi

... Petitioner/Petitioner/Plaintiff

-VS-

1. Mariammal
2. Chithirai Kani
3. Rasukutti
4. Muniyasami
5. Chinna Muniyasami
6. Muniyammal
7. Ponmani
8. The Branch Manager,
Indian Bank,
Tiruchendur Road,
Tuticorin Town,
Tuticorin District.



C.R.P.(MD).No.1191 of 2019

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9. The Registrar,

Keelur Sub Registrar Office,
Thoothukudi District.

... Respondents/ Respondents
Defendants

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decreetal order passed in I.A.No. 678 of 2018 in O.S.No.16 of 2013 on the file of the Subordinate Court, Tuticorin, dated 05.02.2019.

For Petitioner : Mr.K.S.Duraipandian

For R 9 : Mr.C.Satheesh
Government Advocate

For R2 to R8 : No appearance

ORDER

The present Civil Revision Petition has been filed by the plaintiff in O.S.No.16 of 2013 on the file of the Subordinate Court, Tuticorin, challenging the order passed by the trial Court wherein the request of the plaintiff for sending a document for expert opinion was rejected.

2. The revision petitioner herein as plaintiff has filed a suit in O.S.No. 16 of 2013 for the relief of partition, separate possession and for a declaration that loan obtained by the defendants' father would not bind the plaintiff.



C.R.P.(MD).No.1191 of 2019

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3. It could be seen from the records that the plaintiff's brother by name, Madasamy has created an equitable mortgage of the joint family properties by way of registered document dated 01.02.2010. According to the defendants, the plaintiff has also affixed her thump impression in the said document, which is specifically disputed by the plaintiff. According to the plaintiff, the thumb impression found in the document dated 01.02.2010 is a forged one. In order to ascertain the said fact, she had filed I.A.No.678 of 2018 to send the original document for expert opinion to find out whether the thump impression found in the disputed document tallies with the thump impression of the plaintiff. The said application has been dismissed by the trial Court on the ground that the plaintiff has not chosen to file any contemporary documents to verify and to compare the thumb impression of the plaintiff. Challenging the same, the present Civil Revision Petition has been filed.

4. According to the learned counsel appearing for the revision petitioner, it is not a case of comparison of signature wherein it is mandatory to file contemporary signature for comparison. It is a case of comparison of thumb impression. Therefore, the petitioner is ready to give her thumb



C.R.P.(MD).No.1191 of 2019

impression for verification before the Court. So that, it can be compared with the thumb impression found in the disputed document dated 01.02.2010.

5. Though the contesting respondents have been served, neither appeared in persons nor through their counsel.

6. The trial Court has erroneously considered the said application as if the plaintiff wants to compare the signature with that at the admitted signature. In fact the application has been filed to find out whether the thump impression is forged one or not. Therefore, the question of seeking contemporary thumb impression does not arise. The order passed by the trial Court is set aside and the matter is remitted back to the file of the trial Court. The plaintiff is directed to give her thump impression in the open Court and the same may be sent for expert evidence to be compared with the thumb impression found in the disputed document dated 01.02.2010.

7. With the above said observation, this Civil Revision Petition stands allowed. There shall be no order as to costs. Consequently connected Miscellaneous Petition is closed.



C.R.P.(MD).No.1191 of 2019

22.04.2024

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NCC : Yes/No
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To
1. The Subordinate Court,
Tuticorin.



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C.R.P.(MD).No.1191 of 2019

R.VIJAYAKUMAR,J.

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C.R.P. (MD)No.1191 of 2019



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C.R.P.(MD).No.1191 of 2019

22.04.2024