



C.R.P(MD)No.112 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.02.2024

CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

C.R.P(MD)No.112 of 2020

and

C.M.P(MD)No.644 of 2020

Radhakrishnan Raja

... Petitioner/1st Petitioner/
1st Appellant

Vs.

1.Karuppayee

... 1st Respondent/Respondent/
Respondent

2.Rajeswari

... 2nd Respondent/2nd Petitioner/
2nd Appellant

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India, to call for the records pertaining to the fair and decreetal order in I.A.No. 201 of 2016 in A.S.No.26 of 2015, dated 04.09.2019 passed by the Sub Court, Kovilpatti and set aside the same.

For Petitioners : Mr.K.P.Narayanakumar

For R-1 : Mr.J.C.Rathinavelpandian

For R-2 : No appearance



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ORDER

This Civil Revision Petition is filed aggrieved by the order, dated 04.09.2019 passed in I.A.No.201 of 2016 in A.S.No.26 of 2015 on the file of the Sub Court, Kovilpatti. The said application was filed by the petitioner herein, who is the appellant in A.S.No.26 of 2016 under Section 45 of the Indian Evidence Act seeking the assistance of the Court to send the Exhibit A.1 'Will' of the year 1991 to the expert opinion for comparing the signature of the executant of the 'Will' with the admitted signature of the executant of the said 'Will' appearing on a photocopy of the registered sale deed of the year 1975. The said application was dismissed by the learned Trial Court on two grounds. Firstly, on the ground that the photocopy of the signature cannot be permitted to be compared with the original signature and secondly, on the ground that there is a vast difference between the time of affixing the signatures on the document of the year 1975 and Exhibit A.1 'Will' of the year 1991. Insofar as second ground is concerned, there cannot be an exception.



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2. It is contended by the learned Counsel for the petitioner that the structure of the signature won't change even after a lapse of long time and hence, to that extent, the signatures can be sent for expert opinion.

3. It is settled law that for comparison of a signature under Section 45 of the Indian Evidence Act, the contemporaries signatures and admitted signatures are required to be produced by the parties concerned. In the instant case, the request of the petitioner is to compare the signature of the year 1975 with the signature of the year 1991. Hence, this Court does not find any error in the order passed by the learned Trial Court. In the considered view of this Court, sending of a document executed in 1975 to be compared with 1991 will not serve any purpose even if it is sent to the expert opinion. Instead the petitioner herein can as well seek the indulgence of the Appellate Court for exercising his power under Section 73 of the Indian Evidence Act for comparing the signatures by itself instead of sending it to the expert opinion as it is only with regard to the structure of the said signature and change in structure. Insofar the photocopy of the signature is concerned, there is no absolute bar in comparing the signature on a photocopy of the document is admitted. Hence, it is for the learned trial Court to take a call at an appropriate time.



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4. In the light of the above, this Court is not inclined to interfere with the order under revision. However, it is open for the petitioner to seek indulgence of the Court to exercise its power under Section 73 of the Indian Evidence Act at a time of final disposal of the appeal, in the light of the observation made *supra*.

5. In the result, this Civil Revision Petition stands dismissed subject to above observations. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

29.02.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR

To

- 1.The Sub Court,
Kovilpatti.
- 2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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MUMMINENI SUDHEER KUMAR, J.

BTR

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