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A. Nos.4460 and 4143 of 2025

in

C.S. No.806 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.09.2025

CORAM :

THE HONOURABLE MR.JUSTICE P.DHANABAL

A. Nos.4460 and 4143 of 2025

in

C.S. No.806 of 2018

Dr. Regina Blossom Sam W/o. K.P. Thooyamani ... Applicant / Defendant

Vs.

1. C. Jerone Ceaser Shroffe
S/o. S.P. Prabhakaran

2. Betsy Veronica
W/o. Judson and daughter of S.P. Prabhakaran

3. The Sub Registrar General,
No.1103, Poonamallee High Road,
Periamet, Chennai-600 003.

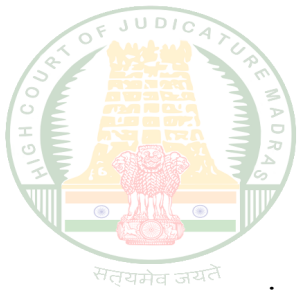
... Respondents / Plaintiffs

PRAYER in A. No.4460 of 2025: This application has been filed under Order

XIV Rule 8 of High Court Original Side Rules read with Order 39 Rule 2 read

with Section 39(1) & 72 of B.S.A. and Section 151 of Civil Procedure Code

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praying to obtain expert opinion report by sending the Thumb Impression

Register in relation to Settlement Deed in Doc. No.2974 of 2006 dated 08.12.2006 along with thumb impression register in relation to cancellation of settlement deed in Doc. No.36 of 2008 dated 08.01.2008 for comparison of thumb impression of Mrs. Flora Sam, for forensic analysis so as to find if thumb impression of Mrs. Flora Sam are the same in both documents.

PRAYER in A. No.4163 of 2025: This application has been filed under Order XIV Rule 8 of High Court Original Side Rules read with Order XVI Rule 1 of Civil Procedure Code praying to issue subpoena to the Sub Registrar, Periamet to produce the thumb impression registers in relation to Settlement Deed in Doc. No.2974 of 2006 dated 08.12.2006 and cancellation of Settlement Deed in Doc.No.36 of 2008 dated 08.01.2008.

For Applicant

[both applications] : Mr. P. Subba Reddy

For Respondents

[both applications] : Mr. R. Thiagarajan



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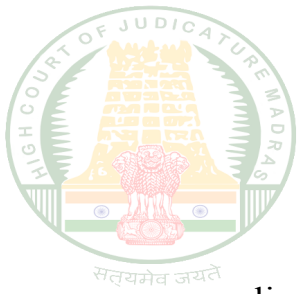


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COMMON ORDER

The application in **A. No.4460 of 2025** has been filed to obtain expert opinion report by sending the Thumb Impression Register in relation to Settlement Deed in Doc. No.2974 of 2006 dated 08.12.2006 along with thumb impression register in relation to cancellation of settlement deed in Doc. No.36 of 2008 dated 08.01.2008 for comparison of thumb impression of Mrs. Flora Sam, for forensic analysis so as to find if thumb impression of Mrs. Flora Sam are the same in both documents and the application in **A. No.4163 of 2025** has been filed to issue subpoena to the Sub Registrar, Periamet to produce the thumb impression registers in relation to Settlement Deed in Doc. No.2974 of 2006 dated 08.12.2006 and cancellation of Settlement Deed in Doc.No.36 of 2008 dated 08.01.2008.

2. The learned counsel appearing for the applicants would submit that



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applicant is the defendant in the man Suit and the Plaintiff has filed the Suit

for the relief of recovery of possession and the same is hotly contested by this

applicant / defendant. The Suit is posted for trial and already PW1 was

examined and Ex.P.1 to Ex.P.18 have been marked. The Suit is based on an

unregistered Will, but the original Will has not been produced and the

Plaintiff has marked only photocopy of the document. After closing the

Plaintiff side evidence, without filing application for re-opening the Plaintiff

side evidence, the Plaintiff/ respondent filed application to receive the

additional documents and the same was allowed. Therefore, the said evidence

has to be eschewed. Further, PW1 was entered into the Witness box and

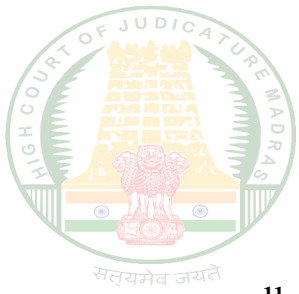
examined as PW1 and he was also cross examined. Now the case is posted

for arguments. The Plaintiffs have set up an impersonator as the attesting

witness of the Will and have examined him. The defendant in order to

substantiate her claims and reliefs sought, as counter claim, is duty bound to

let in evidence ith respect to fraud committed by the respondents in creating



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an alleged cancellation of Settlement Deed and to prove that the document is

not a valid one. Since the specific case of the Plaintiff is that the alleged cancellation has not been executed by their mother as there was no need for that and now the Plaintiffs have projected the impersonator before the Court as an impersonator as an attesting witness and therefore, comparing the thumb impressions through an expert is essential and therefore, filed this application.

3. The learned counsel appearing for the respondents would submit that the respondents are the Plaintiffs and they filed the main Suit for the relief of recovery of possession and now the case is posted for arguments after completion on evidence on both sides and now only, to delay the proceedings, the applicant has filed these applications. Moreover, the applicant / defendant in the written statement has categorically admitted in Para No.6 of the written statement that "the unilateral cancellation of settlement deed without notice is not valid and the said cancellation has been done at the instigation of the

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Plaintiffs and not voluntarily by her and thereafter, on thorough enquiry with

the officials in the Registrar Office, this defendant came to know that settlement deed executed by this defendant's mother had been cancelled. No prior notice has been issued to this defendant by the defendant's mother at no point of time and such cancellation has been done only at the instigation of the Plaintiffs. Hence, cancellation of settlement deed is not valid in law and no proper notice has been issued to the defendant. The Plaintiffs might have influenced her and taken her to the Registrar Office and obtained such cancellation of the settlement deed". By way of the said pleadings, the defendant admitted the cancellation of settlement deed and his defence is by influencing the mother of the defendant, they obtained the cancellation deed. Therefore, sending of Thumb Impression Register for expert opinion is unnecessary. Therefore, the application is liable to be dismissed.

4. Heard both sides and perused the materials available on record

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5. This application has been filed by the applicants to send the Thumb Impression Register in relation to Settlement Deed dated 08.12.2006 along with thumb impression register in relation to cancellation of settlement deed in Doc. No.36 of 2008 dated 08.01.2008 for comparison of thumb impression of the executor of the Settlement Deed. The main contention of the applicant is that the Settlement Deed was executed by the mother of the defendant in his favour and thereafter, it was unilaterally cancelled on 08.01.2008. Therefore, the Thumb Impression Registers of both the Settlement Deed as well as cancellation of Settlement Deed are essential to prove the case.

6. This Court also perused the entire records. The specific case of the defendant is that the Settlement Deed was executed by the Settlor in favour of the Settlee on 08.12.2006 and thereafter, without any notice, the cancellation of Settlement Deed dated 08.01.2008 was executed at the instigation of the respondents / Plaintiffs. Even according to the Written Statement averments,

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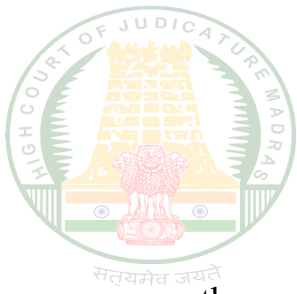
cancellation of settlement deed has been done at the instigation of the

Plaintiffs and the Plaintiffs might have influenced his mother and they had taken his mother to the Registrar Office and obtained such cancellation deed.

Therefore, the above said pleadings pleaded in the written statement shows that execution of cancellation of settlement deed was admitted, but that deed was obtained at the influence of the Plaintiffs. Therefore, sending thumb impression registers are no way helpful to decide the case. Moreover, the Plaintiffs can very well take steps to compare the thumb impressions found in the original settlement deed as well as in the original cancellation of settlement deed. But he has not taken any steps and he has only taken steps to send the Registers of thumb impression found in the settlement deed as well as in the cancellation of settlement deed.

7. Moreover, already both sides witnesses have been examined and now the case is posted for arguments. At this stage, the applicant has filed

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these applications without any valid reasons. Therefore, the applicant has not

taken any steps at the earliest point of time and now at the stage of arguments,

filed this application. Moreover, summoning to produce thumb impression

registers in relation to Settlement Deed in Doc. No.2974 of 2006 dated

08.12.2006 and cancellation of Settlement Deed in Doc.No.36 of 2008 dated

08.01.2008, are unnecessary and it will not serve any purpose as the Applicant

admitted in the written statement. The Suit prayer is only for the recovery of

possession and therefore, these applications are noway helpful to decide the

case effectively.

8. Therefore, as discussed supra, this application has no merits and the applicant is not entitled to any relief and these application deserves to the dismissed.

9. Accordingly, the applications are dismissed.

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To

The Sub Registrar General,
No.1103, Poonamallee High Road,
Periamet, Chennai-600 003.

P.DHANABAL.,J

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