

C.R..P.(MD).No.821 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.06.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.R.P.(PD)(MD)No.821 of 2019
and
C.M.P.(MD)No.4981 of 2019

Raman (died)

- 1.Ezukovan (died)
- 2.Poongodi
- 3.Selvakumar
- 4.Uma Maheswaran
- 5.Nagarajan
- 6.Vasantha
- 7.Palasamy
- 8.Rajamani
- 9.R.Jothi

... Petitioners

[Petitioners 6 to 9 are brought on record as legal heirs of the deceased first petitioner vide order dated 20.11.2024]

Vs.

- 1.Latha
- 2.Rajalakshmi
- 3.Krishnakumari
- 4.Savithri
- 5.Saroja
- 6.Paramesh

Krishnaveni (died)

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7.Gowri Sankar

8.Nagarajan

9.Sundaramoorthy

... Respondents

PRAYER: Civil Revision Petition - filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 15.03.2019 passed in I.A.No.77 of 2019 in O.S.No.44 of 2004 on the file of the Sub Court, Sivagangai.

For Petitioner : Mr.G.Prabhu Rajadurai
For R1 : Mr.M.Venkatesh
For RR6, 7 & 9 : Mr.A.C.Arun Kumar
For RR2 to 5 & 8 : No Appearance

ORDER

This Civil Revision Petition is filed seeking to set aside the fair and decreetal order dated 15.03.2019 passed in I.A.No.77 of 2019 in O.S.No.44 of 2004 on the file of the Sub Court, Sivagangai.

2.The petitioners are the plaintiffs in a suit in O.S.No.44 of 2019 on the file of the Sub Court, Sivagangai. The father of petitioner 2 to 5, namely, Raman and the first petitioner herein filed a suit for declaration and consequential injunction. During the pendency of the suit, the said Raman



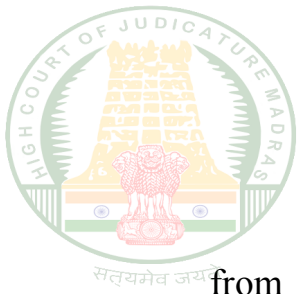
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died. Thereafter, the petitioners 2 to 5 were impleaded as party to the suit and continued the suit proceedings. After filing of the Civil Revision Petition, the first petitioner also died. Hence, the petitioners 6 to 9 were impleaded as party in this petition and also to the suit proceedings.

3.The suit schedule property originally belonged to one Chinnavadu Chettiar. He purchased the properties through sale deed dated 26.02.1975. After his purchase, the said Chinnavadu Chettiar constructed a house in the property. Thereafter, he executed a Will dated 10.03.1995 in favour of his two sons, namely Paramesh and Sekar, reserving life interest to his wife and another son Iyappan. As such the said Paramesh arrayed as first defendant in the suit and Sekar is not arrayed as party in the suit proceedings.

4.The said Chinnavadu Chettiar died on 22.06.1995. Thereafter, his wife and another son died. After the death of the mother and another brother, Paramesh settled his share of the property by way of a settlement dated 04.12.1995 in favour of Sekar. As such, the said Sekar became absolute owner of the suit property. The father of the petitioners 2 to 5 along with the first petitioner herein, who are the plaintiffs in the suit purchased the property



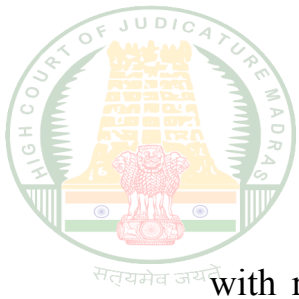
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from the said Sekar on 27.09.1996. Thereafter, the plaintiffs became the absolute owners of the property and enjoyed the same on their own.

5.In the meanwhile, by suppressing all the above said facts, the defendants filed a suit in O.S.No.137 of 1986 before the District Munsif Court, Tiruchirappalli claiming partition as if the property of Chinnavadu Chettiar remained with their family and obtained an *ex-parte* award as against the petitioners.

6.Only after coming to know about the said decree and judgment, the petitioners have filed the present suit in O.S.No.44 of 2004 for permanent injunction. In this suit, after the plaintiffs' side evidence was over and when the suit is posted for defendant's side further evidence, the first respondent filed an application in I.A.No.77 of 2019 alleging that the signature found in the certified copy of the Will under Ex.A2 and the original copy of the Will under Ex.A14 dated 10.03.1995 is forged. It was further alleged that Chinnavadu Chettiar along with his wife executed a settlement deed dated 26.09.1994 in favour of her daughter, namely Krishnaveni/ fourth defendant, which is marked as Ex.B1. Hence, he requests the Court to get an opinion



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with regard to the genuineness of the signature of Chinnavadu Chettiar by sending all the documents under Ex.A1, Ex.A14 and Ex.B1 for an expert analysis under Order 26 Rule 10 A (1) & (2) CPC. The said applications were allowed. Challenging the same, the present Civil Revision Petition is filed.

7.The learned counsel for the petitioner submits that admittedly, on the basis of the Will dated 10.03.1995, the legal heirs of Chinnavadu Chettiar made a family arrangement and lastly, the property came to the hand of one Sekar. From him, the petitioners purchased the properties vide sale deed dated 27.09.1996. He would further submit that the settlement deed dated 26.09.1994 relied by the respondents is prior to the Will, through which the petitioners trace their title. The petitioners disputed the settlement deed dated 26.09.1994 itself and hence, the disputed document cannot be sent for comparison of signature. However, he fairly submits that if any document prior to 26.09.1994 is available with the respondent, then the same shall be sent for forensic expert opinion. Accordingly, he prayed for appropriate orders.



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8.Per contra, the learned counsel for the respondent submitted that the signature of Chinnavadu Chettiar found the alleged Will dated 10.03.1995 is forged. Hence, in order to find out the genuineness of the above said Will, the respondents sought to compare the same with the signature found the document dated 26.09.1994, which is the settlement deed executed by Chinnavadu Chettiar and his wife. The trial Court after considering all these aspects, allowed the application seeking comparison of signature. Hence, the same need not be interfered.

9.Heard the learned counsel for the petitioner as well as the respondents and perused the materials placed on record.

10.The facts in the present case are not in disputed. The petitioners claims that the subject property was purchased by their fathers in the year 1996. Admittedly, the petitioners' fathers filed the suit seeking declaration only in the year 2004. Whereas, the respondents claims that the property in question belonged to them under the settlement deed of the year 1994. Hence, they disputed the Will relied upon by the petitioners.



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11. Admittedly, the Will and the settlement deed are prior to the suit.

Hence, it is impossible to assume that the said Will and the settlement deed are forged for the purpose of the suit. The original Will is marked as Ex.A14 and the certified copy of the Will is marked as Ex.A2. The settlement deed is also marked as Ex.B1. Hence, I feel that the trial Court has rightly arrived at a conclusion for sending the said documents for expert opinion to find out whether the signature found in the settlement deed is that of the signature found in the Will.

12. In view of the above observations, I do not find any reason to interfere with the order impugned in this petition. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

13.06.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

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



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M.DHANDAPANI,J.

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