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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-10-2026

CORAM

THE HON'BLE MR JUSTICE N. ANAND VENKATESH

CRP Nos. 5539 & 6041 of 2026

CNR:{HCMA010685942026}

AND

CMP NO. 23908 OF 2026

& CMP NO. 26174 OF 2026

1. Kumar
   S/o.Late.Vaithialingam,
   No.55, Mariamman Koil Street,
   Kilinjipuppam, Cuddalore District,
   Tamil Nadu 605 110.

2. Selvam,
   S/o Late Vaithialingam,
   No.27, 1st Street,
   Sakthi Nagar
   Kottaimedu, Villianur,
   Puducherry- 605 110.

..Petitioner(s)

Vs

1. Vanitha
   D/o.S.Jayamourthy,
   W/o.Late V.Kathiravan,
   No.21, Pillaiyar Koil street,
   Kombakkam, Odiampet Post,
   Puduchery 605110
2. Likhitha (Minor)
   (Rep.by her natural Guardian her mother the
   Plaintiff herein)
   residing at No.21,
   Pillaiyar Koil Street,
   Kombakkam,
   Odiampet Post,
   Puducherry- 605 110.

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..Respondent(s)

CRP No. 6041 of 2026

CNR:{HCMA010686342026}

1. Kumar
   S/o.Late.Vaithialingam,
   No.55, Mariamman Koil Street, Kilinjikuppam,
   Cuddalore District,
   Tamil Nadu 605110

2. Selvam
   S/o.late Mr.Vaithialingam,
   No.27,
   1st Street,
   Sakthi Nagar,
   Kottaimedu,
   Villianur,
   Puducherry 605 110

..Appellant(s)

Vs

1. Vanitha
   D/o.S.Jayamourthy, W/o.Late.V.Kathiravan
   No.21
   Pillaiyar Koil Street,
   Kombakkam,
   Odiampet Post,
   Puducherry 605110

2. Likhitha Minor
   Rep by her natural guardian her mother the 1st plaintiff herein
   D/o.late V.Kathiravan,
   NO.21,
   Pillayar Koil Street,
   Kombakkam,
   Odiampet Post,
   Puducherry 605110

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..Respondent(s)

CRP No. 5539 of 2026

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order dated 27.01.2026 passed in I.A.No.4 of 2025 in O.S.No.271 of 2022 on the files of the III Additional District Judge At Puducherry.

CRP No. 6041 of 2026

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order dated 27.01.2026 passed in IA No. 5 of 2025 in OS No. 271 of 2022 on the files of the III Additional District Judge at Puducherry.

For Petitioner(s): Mr.G.Sathishkumar for
Ms. GSK Law Firm

For Respondent(s): Mr.Prakash Adiapadam

ORDER

These Civil Revision Petitions have been filed under Article 227 of the Constitution of India challenging the fair and decreetal order dated 27.01.2026 passed in I.A.Nos.4 & 5 of 2025 in O.S.No.271 of 2022 on the file of the III Additional District Judge At Puducherry, wherein the applications filed by the respondents/plaintiffs to reopen the case and to send the disputed Will for expert opinion came to be allowed by the Court below.

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2.Heard the learned counsel for the petitioner and the learned counsel appearing on behalf of the respondents and carefully perused the materials available on record and this Court also carefully went through the order passed by the Court below.

3.The respondents/plaintiffs filed the suit in O.S.No.271 of 2022 seeking for the relief of partition and for allotment of 1/3rd share in the suit property and for permanent injunction. The defendants had placed reliance upon a Will dated 06.08.2011, which was marked as Ex.B2. The respondents/plaintiffs seriously disputed the genuineness of the said Will on the ground that the signature found therein has been forged and that it was a fabricated document.

4.The suit reached the stage of final arguments and was reserved for judgment and at that stage, IA Nos.4 and 5 of 2025 came to be filed before the Court below to reopen the case and to send the disputed Will for expert opinion. Both these applications came to be allowed by the Court below. Aggrieved by the same, the present Civil Revision Petitions have been filed before this Court.

5.These Civil Revision Petitions were entertained mainly on the ground that insofar as the Will is concerned, the burden of proof is always upon the

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person who relies upon the Will, not only to prove the Will but also to dispel all suspicious circumstances that are raised and surrounding the Will. In view of the same, a Will is never send for expert opinion, as is done for other documents. The judgement of this Court in ***Periathal and Others vs. Gomathi and Another*** reported in ***(2018) 3 MWN (Civil) 584*** was relied upon.

6.When the matter was taken up for hearing today, it is brought to the notice of this Court that a report has already been submitted before the Court below.

7.In the light of the above development, it is not necessary for this Court to go into the legality or otherwise of the order passed by the Court below. The Court below should keep in mind the fact that insofar as the Will is concerned, the Court has to entirely go by the evidence that has been let in before the Court, both regarding the proof of Will as well as discharging the burden of dispel the suspicious circumstances around the Will. This will be the main test that will be applied by the Court below while testing the legality of the Will that was relied upon by the defendants and which was marked as Ex.B2.

8.In the light of the above discussion, these Civil Revision Petitions are disposed of with a direction to the III Additional District Judge, Puducherry, to

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dispose of the suit in O.S.No.271 of 2022, within a period of eight weeks from the date of receipt of copy of this order. No Costs. Consequently, the connected miscellaneous petition is closed.

30-10-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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To

The III Additional District Judge at Puducherry.

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N.ANAND VENKATESH J.

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