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CRP Nos 3054, 3058 & 3062 of 2025 AND CMP NO. 17157 OF 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.07.2026

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THE HONOURABLE MR JUSTICE ABDUL QUDDHOSE

CRP Nos. 3054, 3058 & 3062 of 2025 and CMP NO. 17157 OF 2025

Vignesh

.. Petitioner in all cases

VS

C.Sripriya

.. Respondents in all cases

COMMON PRAYER: Civil Revision Petitions filed under Article 227 of the Constitution of India to set aside the impugned fair and decreetal orders made in I.A.No.525 of 2018 and I.A.Nos.1 and 2 of 2019 in O.S.No.76 of 2014, dated 13.10.2023 on the file of the II Additional District Judge, Salem now transferred to Additional District Judge, Attur.

For petitioner : Mr.K.Premkumar

For Respondent : Ms.V.Srimathi



ORDER

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These Civil Revision Petitions have been filed challenging the impugned orders all dated 13.10.2023 passed in interlocutory applications filed in the suit O.S.No.76 of 2014, dismissing the petitioner's applications seeking to send the disputed suit sale agreement and extension of time agreement dated 12.01.2012 and also Original Will dated 27.01.2013 to the forensic expert for comparison with the contemporaneous admitted signatures of the deceased vendor, under Section 45 of the Indian Evidence Act, 1872.

2. Since the impugned orders arise out of the very same suit, these Civil Revision Petitions are disposed of by a common order.

3. The suit has been filed by the respondent/plaintiff seeking for specific performance of the agreement of sale dated 13.10.2011 and extension of time agreement dated 12.01.2012. The Trial Court had dismissed the petitioner's applications by giving the following reasons:

(a) The applications were filed belatedly and were heard in the part heard stage.



(b) The Suit was filed in the year 2014 and only when the case was posted for cross examination of P.W.1, the petitioner/2nd Defendant filed the interlocutory applications under Section 45 of the Indian Evidence Act.

(c) Already the suit Sale Agreement was sent for comparison and report pursuant to the orders passed by the very same Trial Court. Therefore, there is no necessity to send the documents once again for a report under Section 45 of the Indian Evidence Act.

(d) The petitioner has filed these applications only to protract the proceedings and for causing delay in the disposal of the suit.

4. Learned counsel for the petitioner would submit that the extension of time agreement was not sent to the expert under Section 45 of the Indian Evidence Act and it is only the original sale agreement which was sent to the expert, pursuant to the earlier order passed by the very same Trial Court. He would also submit that there was no delay on the part of the petitioner to file an application under Section 45 of the Indian Evidence Act as observed in the impugned order. He also drew the attention of this Court to the additional written statement filed by the petitioner/2nd defendant in the suit and would submit that a specific plea was taken by the petitioner/2nd defendant that the

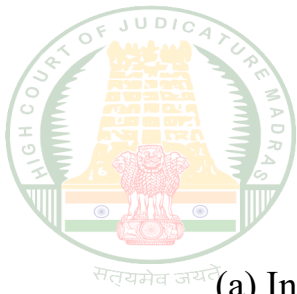


plaintiff's vendor never signed the Extension of Time Agreement. Therefore, according to him the Trial Court ought to have allowed the applications filed by the petitioner. He would also submit that no prejudice would be caused to the respondent if the applications are allowed.

5. On the other hand, learned counsel for the respondent/plaintiff would reiterate the contents in the impugned order. According to her, the petitioner ought to have disputed the extension of time agreement in his written statement filed at the first instance. Having not taken such a plea, the Trial Court has rightly rejected the petitioner's applications as the same was filed only after commencement of Trial. She would submit that the applications were filed only in the years 2018 and 2019 and whereas the suit was filed in 2014. She would also submit that by virtue of an applications filed under Section 45 of the Indian Evidence Act, the petitioner is attempting to prove the Will said to have been executed in his favour. According to her that cannot be done and hence the Trial Court has rightly dismissed the petitioner's applications.

Discussion:

6. The following are the undisputed facts:



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(a) In the written statement filed by the petitioner/2nd defendant at the 1st instance the petitioner/2nd respondent never disputed the execution of extension of time agreement dated 12.01.2012.

(b) Only for the first time, in the additional written statement filed by the petitioner/2nd respondent with the leave of the Court that too only in the year 2018, the petitioner/2nd respondent had disputed the execution of the extension of time agreement dated 12.01.2012.

(c) Admittedly the applications filed under Section 45 of the Indian Evidence Act were filed by the petitioner/2nd defendant only in the part heard stage of the suit i.e, at the time of cross examination of P.W.1.

(d) The suit has been filed for the specific performance of an agreement of sale and also the extension of time agreement dated 12.1.2025 by the respondent/plaintiff.

7. In the affidavit filed in support of the interlocutory applications, the petitioner/2nd defendant relies upon a “Will” to oust the respondent/plaintiff from obtaining the relief of specific performance in the suit. The suit for specific performance is not a suit for title but it is a suit to enforce the agreement of sale between the parties. Whether the parties had the title to the suit property or not was not the subject matter of



the suit O.S.No.76 of 2014 and hence the contentions of the petitioner as raised in the affidavit filed in support of I.A.Nos.1 of 2019 and 2 of 2019 and 525 of 2018 with regard to the alleged “Will” is irrelevant for the Trial Court to decide. The Trial Court has rightly dismissed the petitioner’s applications by holding that they have been filed belatedly and they are irrelevant for deciding the “suit for specific performance”.

For the foregoing reasons this Court does not find any merit in these Civil Revision Petitions. Accordingly, these Civil Revision Petitions are dismissed. No costs.

27.07.2026

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To

- 1.The II Additional District Judge, Salem.
- 2.The Additional District Judge, Attur.



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ABDUL QUDDHOSE J.

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