

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2015

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(PD)No.4440 of 2015 &

M.P.No.1 of 2015

1.Govindan
2.Shanmugam
3.Gunasundari

... Petitioners

v.

N.Thulasingam

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 23.09.2015 made in I.A.No.738 of 2015 in O.S.No.2 of 2014 on the file of the III Additional District Judge, Pondicherry.

For Petitioner : Mr.K.S.Karthik Raja

O R D E R

Challenging the fair and final order passed in I.A.No.738 of 2015 in O.S.No.2 of 2014 on the file of III Additional District Court, Pondicherry, the defendants have filed the above Civil Revision Petition.

2. The plaintiff filed the suit in O.S.No.2 of 2014 for declaration and for recovery of possession. The defendants filed their written statement and are contesting the suit.

3. The Trial Court took up the matter for trial and after the completion of evidence of P.W.1, the defendants took out an application in I.A.No.738 of 2015 under Order 26, Rule 10 A of CPC to send the agreement deed dated 1.8.1990 along with admitted documents, viz., Ex.A11 and Ex.B1, for comparison of the signature.

4. It is pertinent to note that the agreement deed dated 1.8.1990 has not been marked before the Trial Court.

5. The learned counsel appearing for the petitioners submitted that the defendants would be marking the documents when the defendants are being examined.

6. When the document has not yet been marked before the Trial Court, there is no necessity for filing the application at this stage. Further, in the case of the application being allowed and if the defendants gets an adverse finding from the Forensic Department with regard to the signature found in the agreement deed dated 1.8.1990, they may not mark the document in the trial. In these circumstances, the Trial Court has rightly dismissed the application.

7 . In view of the above, I do not find any error or irregularity in the order passed by the Trial Court. The Civil Revision Petition is devoid of merits and is liable to be dismissed. The learned counsel for the petitioners submitted that liberty may be given to the defendants to file appropriate application after marking the agreement deed dated 1.8.1990. It is open to the defendants to file an application for comparison of the signature found in the agreement deed dated 1.8.1990 after marking the same at the time of trial.

With these observations, the Civil Revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes/No

25.11.2015

Rj
To
The II Additional District Judge,
Pondicherry.

M. DURAISWAMY,J.,

Rj

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