

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.02.2015

CORAM

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.R.P. (PD) No.671 of 2015 &
M.P.No.1 of 2015

1.L.Chandrabose
2.Annamalai

... Petitioners/Respondents1,2/
Defendants 1&2

Vs.

V.Gnanavallal

.. Respondent/Petitioner/Plaintiff

Prayer:

Petition filed under Article 227 of the Constitution of India against the order and decretal order dated 27.01.2014 made in I.A.No.280 of 2013 in O.S.No.112 of 2007 on the file of the Sub Court, Cheyyaar, Thiruvannamalai District.

For Petitioner : Mr.S.Vadivel

O R D E R

This revision is directed against the order passed by the Sub Judge, Cheyyar, Thiruvannamalai District in I.A.No.280 of 2013 in O.S.No.112 of 2007.

2.The petitioners are the defendants in the suit in O.S.No.112 of 2007 on the file of the Sub Court, Cheyyar, Thiruvannamalai District. The respondent had instituted the suit against the petitioners for declaration of title and for permanent injunction.

3. The petitioners filed their written statement stating that on the basis of the power of attorney executed by the plaintiff in favour of the second defendant dated 28.06.1999, the first defendant had purchased the property on 09.12.1999. The plaintiff disputing the signature in the power of attorney, filed I.A.No.122 of 2009 seeking for a direction of the Court to send the power of attorney for opinion of handwriting expert. The trial Court on 16.06.2009, dismissed the application holding that the Court has got a power to compare the signature found in the power of attorney. It is further observed that the plaintiff can prove his case by examining the other witnesses to the power of attorney.

4. The plaintiff filed the present application in I.A.No.280 of 2013, praying to appoint an commission for Scientific Investigation of the power of Attorney document dated 28.06.2009. In the affidavit filed in support of the application, the plaintiff has categorically stated that the power of attorney is a fabricated document and forged

one. Despite the objections by the petitioners herein, the trial Court allowed the application. Challenging the said order, the present revision is filed.

5. Mr.Vadivel, learned counsel for the petitioners submitted that the plaintiff has filed the present application only to drag on the proceedings and that the earlier application filed by the respondent/plaintiff for the same relief was dismissed on merits and therefore, the present application is not maintainable. I am unable to accept the submission of the learned counsel for the petitioners.

6. The Hon'ble Supreme Court time and again held that though the Court has got power to compare the signature under Section 73 of the Evidence Act, when there is a serious dispute with regard to signature, it is always advisable for the Court to refer the matter to the expert. As a matter of extreme caution and judicial sobriety, court shall not normally take upon itself the responsibility of comparing the disputed signature and leave it to the wisdom of experts.

7. In view of the stand taken by the plaintiff in the suit and the dictum of the Supreme Court, I am of the view that the opinion of expert is very much necessary in this case. Hence, I do not find any irregularity or illegality in the impugned order.

8. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

Dated:25.2.15

True Copy

Sub Assistant Registrar

To

The Subordinate Judge,
Subordinate Court, Cheyyar, Tiruvannamalai.

+1 cc to Mr.S.Vadivel, Advocate, SR.8031.

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krd 5/3

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