

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 26.02.2015**

**CORAM**

**THE HONOURABLE MR. JUSTICE P.R.SHIVAKUMAR**

**C.R.P (PD) No.1155 of 2012**

**&**

**M.P.No.1 of 2012**

1.Abdul Lathef Rowther

2.P.Kumanan

...Petitioners

vs.

Somasundaram Pillai

...Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal orders passed in I.A.No.1141 of 2011 in O.S.No.38 of 2008 dated 17.12.2011 on the file of the Court of District Munsif, Sirkali.

For Petitioners : Mr.A.Muthukumar

For Respondent : Mr.S.Sounthar

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**ORDER**

Heard Mr.A.Muthukumar, learned counsel appearing for the petitioners and Mr.S.Sounthar, learned counsel appearing for the respondent and perused the materials available in the form of typed-

set of papers.

2. The defendants in O.S.No.38 of 2008 on the file of the Court of District Munsif, Sirkali are the petitioners in the present revision. They have challenged the order of the trial Court dated 17.12.2011 in I.A.No.1141 of 2011. The suit is one for specific performance based on suit agreement for sale allegedly executed by the first petitioner herein on 07.12.2003. The defence plea taken by the revision petitioners before the trial Court is that the suit agreement for sale is a forged one.

3. In tune with their contention, the petitioners filed an earlier application in I.A.No.532 of 2011 praying for an order to send the disputed agreement along with a cheque dated 10.10.2003 and a counterfoil evidencing remittance of an amount in the postal Saving Bank account of the first petitioner to the Regional Forensic Lab for the opinion of a handwriting expert. The expert in the Forensic Lab, on receipt of those documents with the request of the Court to examine the document containing the disputed signature and the documents containing the alleged admitted signatures, declined to give his opinion on the premise that the signatures found in the documents sent along with the disputed document were not fit for

comparison. Accordingly, the Forensic Lab returned the documents to the trial Court.

4. Thereafter, the petitioner filed a second application in I.A.No.1141 of 2011 praying for an order to send the vakalat, written statement and the returned summons containing the signature of the first petitioner along with the above said documents once again to the Regional Forensic Lab for getting the opinion of a handwriting expert. This time, the petition was resisted by the respondent on the ground that the first two documents, namely cheque and counterfoil were already found by the handwriting expert not fit for comparison with the disputed suit agreement for sale and that the other three documents, which were sought to be referred to the handwriting expert as documents containing admitted signatures, were also unfit for comparison as there was every possibility of the first petitioner having disguised his signature in all those documents that came to be made after the dispute arose and the Court was seized of the suit. The learned trial Judge sustained the objection raised by the respondent herein and dismissed the application by the impugned order dated 17.12.2011.

5. This Court, after perusing the copy of the impugned order and the records produced in the form of typed-set of papers, is not

able to find any ground for interference with the well considered order of the learned trial Judge. As rightly contended on behalf of the respondent, the three documents, namely returned summons, vakalat and written statement cannot be said to be documents containing the signature of the first petitioner which were made contemporary to the signature found in the disputed document and there is also a probability of the first petitioner having disguised his signatures with the intention of using it for comparison with the disputed signature. So far as the other two documents are concerned, already the expert in the Forensic Lab expressed his opinion that they were not suitable and sufficient for being compared with the disputed signature and expressing an opinion. Therefore, no purpose will be served by once again sending those two documents to the Regional Forensic Lab for the opinion of the handwriting expert. This Court does not find any defect or infirmity in the impugned order passed by the trial Court and the challenge made to the impugned order deserves rejection.

6. In the result, the Civil Revision Petition is dismissed. However, by way of clarification it is made clear that this order shall not come in the way of the petitioners leading evidence in proof of their claim that the signature of the first petitioner found in the suit sale agreement is a forged one by adducing available evidence

including examination of a private handwriting expert. No costs.

Consequently, the connected miscellaneous petition is closed.

**26.02.2015**

Index: Yes/No

Internet: Yes/No

gpa

To

The District Munsif

Sirkali

**P.R.SHIVAKUMAR.J.,**

gpa

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