IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :11.01.2016

CORAM :

THE HONOURABLE MS.JUSTICE R.MALA

C.R.P(PD).Nos.1313 and 1314 of 2008
and M.P.No.1 of 2008

1.T.Nagi Chetty (deceased)
2.N.Natarajan
3.N.Mani
4.A.Kamala
5.C.Annamalai
6.N.Saraswathi
(sixth petitioner brought on record as legal heir of the deceased first petitioner vide order of Court dated 03.02.2014 made in M.P.Nos.1,1 of 2014 in CRP(PD)Nos.1313 & 1314 of 2008) .. Petitioners/Plaintiffs in both CRPs.

Vs.

M.Venkatappan .. Respondent/Defendant in both CRPs.

Prayer:- Civil Revision Petitions are filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 03.12.2007 made in I.A.Nos.391 and 392 of 2007 in O.S.No.386 of 2002 on the file of the I Additional District Munsif Court, Salem.

For Petitioner : Mr.T.Murugamanikkam
For Respondent : Mr.B.Kumarasamy

COMMON ORDER

Civil Revision Petitions are filed against the fair and decreetal order dated 03.12.2007 made in I.A.Nos.391 and 392 of 2007 in O.S.No.386 of 2002 on the file of the I Additional District Munsif Court, Salem.

2.The revision petitioners herein as the plaintiffs filed a suit for declaration that the defendant/respondent herein has retired from the firms and has ceased to have any business connection within plaintiffs and the firms by virtue of the retirement deeds executed by him regarding firms viz., (1) Nagi Chetty Textiles (2) Sri Navamani Textiles, (3) Sri Maniraj Fabrics, (4) Sarabaa Textiles and (5) Vishanth Fabrics; and restraining the defendant and his men from interfering with their business affairs by preferring complaint to the police against them concerning the five firms and also other reliefs. The respondent/defendant filed a written statement stating that he is one of the partners in all the firms mentioned in the plaint and he did not retire from the partnership firms.

3.During pendency of the suit, according to both sides, the respondent/defendant filed an application in I.A.No.143 of 2005 to send Exs.A1 to A10 to the Expert's opinion for comparison of his signature stating that he has not executed the above documents. Even though that application was allowed by the trial Court and the documents sent for, Handwriting Expert sent a letter dated 27.02.2007 stating that they are unable to compare the admitted signature found in the sales tax document with the signatures found in Exs.A1 to A10, because the standard of such documents are poor. Therefore, the plaintiffs have come forward with the present application in I.A. No.391 of 2007 under Section 45 of the Indian Evidence Act to send Exs.A1 to A10 to the Forensic Science Department for comparing the signature of the respondent/defendant with his admitted signature found in the sale deed dated 26.02.1996, which was executed by the respondent/defendant. They also filed another application in I.A.No.392 of 2007 under Section 75 of the Civil Rules of Practice to send for the petition mentioned original document to the Forensic Science Department for comparison of the signatures found in Exs.A1 to A10. The trial Court, after hearing both sides, dismissed the applications, against which, the plaintiffs have preferred the revisions.

4.Learned counsel for the revision petitioners/plaintiffs submits that to prove their case and the retirement deeds under Exs.A1 to A10 are genuine, sending for Exs.A1 to A10 to the Forensic Science Department for comparing the signature of the respondent/defendant with his admitted signature found in the sale deed dated 26.02.1996, is necessary. But that factum was not considered by the trial Court. He further submits that the revision petitioners/plaintiffs have already filed an application for the same relief, which was returned. Therefore, he prayed for allowing the revisions.

5.Resisting the same, learned counsel for the respondent/defendant filed an additional document submitting that a criminal complaint has been registered against the plaintiffs for creating a forged retirement deed and misappropriation. During interrogation, they found that the retirement deed is a forged one. It is further submitted that the respondent is not aware of the fact that whether the document filed before the Court is sent for Forensic Science Department. Hence, he prayed for dismissal of the revisions.

6.Considered the rival submissions made on both sides and perused the typed set of papers.

7.The revision petitioners herein as the plaintiffs filed the suit for declaration that the defendant/respondent herein has retired from the partnership firms after executing the retirement deed. Now he is attempted to interfere with the plaintiffs' business. Hence, the plaintiffs were constrained to file the suit for the aforestated reliefs. The respondent/defendant filed a written statement stating that he had not executed the retirement deeds and all of them are forged.

8.It is admitted by both sides that the respondent/defendant had filed an application in I.A.No.143 of 2005 to send Exs.A1 to A10 to the Expert for comparison of his signature stating that he has not executed the above documents. That application was allowed by the trial Court and the documents were forwarded to the Handwriting Expert for obtaining his opinion. But he sent a letter dated 27.02.2007 stating that they are unable to compare the admitted signature found in the sales tax document with the signatures found in Exs.A1 to A10, because the standard of such documents are poor. Immediately, the plaintiffs have filed the present applications.

9.It is true, it is the duty of the plaintiffs to prove that those documents are true and genuine by filing a document which contains admitted signature of the respondent/defendant during the contemporary period.

10.According to the revision petitioners, the respondent/defendant had executed a registered sale deed dated 26.02.1996 and his signatures found in the filing sheet. So if that filing sheet would be called for, it is helpful to the plaintiffs to compare with the disputed signature. It is true, the plaintiffs have to send for document only in respect of one filing sheet which contains admitted signature of the defendant. But the admitted signature found in one document is not sent for comparison with the disputed signature. Nowadays, 5 to 10 admitted signatures are necessary for comparison during the contemporary period. As already stated that the report received from the Expert shows that the documents pertain to the sales tax department are already old and standard of such documents are poor. Further, we cannot expect that the documents maintained by the Registration department are fit for comparison. The plaintiffs/revision petitioners have to prove the genuineness of the document by way of examining attested witnesses of the document and other public document, instead of sending the document to the Forensic Science Department for comparison. That factum was rightly considered by the trial Court.

11.Considering the aforestated circumstances of the case, I do not find any reason to send for single document from the Registration Department to send the same to the Forensic Science Department for comparison with the disputed signatures of the defendant in Exs.A1 to A10. Therefore, the order passed by the trial Court does not suffer any infirmity or illegality and they are hereby confirmed. The revision petitions are dismissed as devoid of merits.

12.In fine, the Civil Revision Petitions stand dismissed. Since the suit is of the year 2002, the trial Court is directed to dispose of the suit within a period of six months from the date of receipt of a copy of this order. No costs. Consequently connected Miscellaneous Petition is closed.

11.01.2016

Index:Yes/No
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R.MALA,J.

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To

I Additional District Munsif Court, Salem.

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