

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.08.2016

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Civil Revision Petitions (PD) Nos.1448 & 1449 of 2013
and
M.P.Nos.1 of 2013 and 1 of 2014

A.Rama Krushna

.. Petitioner in both CRPs.

.Vs.

1.S.Pushpavelli

2.G.K.Karunakaran @ Karunakaran

3.D.Sathiyamoorthy

.. Respondents in both CRPs.

Civil Revision Petitions filed under Article 227 of the Constitution of India, praying to set aside the order and decretal order dated 13.03.2013 made in I.A.Nos.1392 & 1393 of in O.S.No.13 of 2010 on the file of III Additional District Judge, Poonamallee.

For petitioner	:	Mr.M.C.Govindan for Mr.N.Marikannan
For R1	:	Mr.T.Thiageswaran for M/s.Waraon & Sai Ram
For R2	:	Given up
For R3	:	Mr.T.Sathiyamoorthy

COMMON ORDER

These revisions challenge the common order of learned III Additional District Judge, Poonamallee, passed in I.A.Nos.1392 & 1393 of 2012 in O.S.No.13 of 2010 on 13.03.2013.

2. First respondent/plaintiff filed O.S.No.13 of 2010 on the file of Additional District Court No.III, Thiruvallur, seeking declaration and other consequential reliefs. First respondent/plaintiff filed I.A.No.1392 of 2012 seeking appointment of an Advocate Commissioner to forward his left thumb impression towards comparison with the specimen thumb impression found in the document summoned from the Sub-Registrar Office, Avadi, to the Forensic Science Department, Chennai and for obtaining expert opinion and I.A.No.1393 of 2012 has been filed seeking subpoena to Sub-Registrar, Avadi to produce original thumb impression obtained at the time of registration of power of attorney in Document No.917/2002. Court below, under the impugned order, allowed such applications. Aggrieved, petitioner/second defendant has filed these revisions.

3. Heard learned counsel for petitioner and learned counsel for respondents.

4. In allowing the applications, the Court below has found as follows:

(i) While it was the claim of petitioner/second respondent that he had purchased property from the petitioner through her Power Agent one P.V.Devaraj, it was the case of first respondent/plaintiff that she neither

nominated any person as her Power Agent nor executed Ex.B2 - xerox copy of Power of Attorney deed. First respondent/plaintiff in order to establish his case has filed I.A.No.1393 of 2012 for issuing subpoena to the Sub-Registrar, Avadi, for production of thumb impression affixed in the document at the time of registration towards forwarding the same to Forensic Science Department for comparison of the thumb impression found in the document with her admitted thumb impression and for obtaining expert opinion.

(ii) The contention of petitioner/second respondent that without seeking any relief regards Ex.B2-Power of Attorney Deed in the suit, the first respondent/plaintiff has filed the present application only to protract proceedings and the applications was barred by limitation, has been negated by Court below on the reasoning that if the original of Ex.B2 has been produced, the first respondent/plaintiff could have very well required the same to be sent for expert opinion. In the absence of original document, more particularly, when the same is available with petitioner/second respondent, the first respondent/plaintiff has no other option except to obtain the thumb impression from the Sub Registrar, Avadi, wherein Ex.B2 was registered.

(iii) The contention of petitioner/second respondent that first

respondent/plaintiff purposely has not taken any steps to send her signature found in Ex.B2 with her admitted signature for expert opinion has not been found acceptance at the hands of Court below on the reasoning that the first respondent/plaintiff is at liberty to select either her thumb impression or signature found in Ex.B2 to be sent to expert's for opinion. The plaintiff cannot be compelled to take steps to send disputed signature found in Ex.B2 for comparison with her admitted signature. Even though the disputed thumb impression of the petitioner in Ex.B2 has been affixed more than a decade ago, that itself is not an embargo or a bar to take it for comparison with the admitted thumb impression to be obtained in Court.

5. On the above findings, the Court below has allowed the applications. This Court finds no error in the order under challenge particularly as study of thumb impressions is a definite science.

These Civil Revision Petitions are dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

08.08.2016

Index : Yes/No
Internet : Yes/No
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To
The III Additional District Judge,
Poonamallee.

C.T.SELVAM,J

kkd

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