

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **12.09.2016**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

C.R.P.(P.D.) Nos.2149 and 2150 of 2016 and

CMP.No.11210 of 2016

Arunachalam (Died)

- 1.Ranganathan
- 2.Arasala
- 3.Kamala
- 4.Santhi
- 5.Chinna Paiyan

...Petitioners in both CRPs

Versus

- 1.Kumaravel
- 2.Arumugam
- 3.Chinnaponnu

...Respondents in both CRPs

PRAYER: Civil Revision Petitions filed under Article 227 of the Constitution of India to set aside the fair and decreetal orders dated 09.02.2016 made in I.A.Nos.113 and 114 of 2015 in O.S.No.169 of 2011 on the file of the District Munsif Court, Sankari.

For Petitioners : Mr.R.Marudhachalamurthy

For Respondents : Mr.S.Parthasarathy

COMMON ORDER

The petitioners, who were arrayed as defendants in O.S.No.169 of 2011 in a suit for declaration initiated by the respondents herein, filed applications in I.A.No.113 of 2015 to send the Sale Deed dated 21.11.1990 for expert opinion and I.A.No.114 of 2015 for appointment of Advocate Commissioner to take the original sale deed dated 21.11.1990 along with the admitted signatures and thumb impression to the Hand Writing Expert. The applications were dismissed by the Trial Court. Feeling aggrieved, the petitioners are before this Court.

2. The learned counsel for the petitioners contended that the petitioners wanted the thumb impression to be examined with reference to the thumb impression available on record. The learned Trial Judge proceeded, as if, the request was to send the signature to a handwriting expert.

3. The learned counsel for the respondents supported the orders passed by the learned Trial Judge.

4. The respondents filed a suit against the petitioners on the

strength of a Sale Deed dated 21.11.1990. The respondents prayed for a decree of declaration that they are entitled to the suit property on the strength of the Sale Deed, dated 21.11.1990. The petitioners filed a detailed written statement contesting the claim. The petitioners pleaded that they have not signed or affixed their left thumb impression on the document dated 21.11.1990 and as such, it is a forged document.

5. The petitioners, thereafter filed an application in I.A.No.113 of 2015 to send the suit document for expert opinion. It is true that the petitioners have made a request to send the signature and the left thumb impression for expert opinion. Since contemporaneous documents were not produced, the learned Trial Judge dismissed the application.

6. The learned counsel for the petitioners contended that the petitioners would be satisfied in case, the left thumb impression found on the document dated 21.11.1990 is sent for expert opinion.

7. The petitioners have taken up a specific contention that they

have not executed the document in question. The respondents have not taken any action to send the suit document for expert opinion. Now that the petitioners have come up with a contention that the document dated 21.11.1990 is a forged one and they are prepared to give the thumb impression for verification of the left thumb impression found on the sale deed dated 21.11.1990, necessarily, the said request should be considered favourably. I am therefore of the view that the impugned order in I.A.No.113 of 2015 is liable to be set aside. Consequently, the order in I.A.No.114 of 2015 is also liable to be set aside.

8. In the result, the impugned orders are set aside. The learned Trial Judge is directed to send the document dated 21.11.1990 for expert opinion along with the left thumb impression taken from open Court. The verification should confine to the left thumb impression.

9. The Civil Revision Petitions are allowed to the extent indicated above. No costs. Consequently, connected miscellaneous petition is closed.

12.09.2016

Index:Yes/No
svki

To

The District Munsif Court, Sankari.

K.K.SASIDHARAN, J.

(svki)

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