

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 18.11.2016

Pronounced on :30.11.2016

CORAM

THE HONOURABLE Mr.JUSTICE V.PARTHIBAN

CRP (PD) No.2312 of 2013 and M.P.No.1 of 2013

1. Manickammal
2. Saradammal
3. Valliammal
4. Pushpa
5. K.Dinakaran
6. K.Ramadoss
7. K.Mani

... Petitioners

Vs.

Gnanapaul

... Respondent

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India against the order of dismissal dated 27.03.2013 made in I.A.No.51 of 2013 in O.S.No.37 of 2011 on the file of the learned District Munsif, Ranipet.

For Petitioners : Mr.B.Gopalakrishan for
M/s P.A.Chitramani

For Respondent : Mr.P.Mani

ORDER

The present Civil Revision Petition is filed against the order passed by the learned District Munsif, Ranipet, in I.A.No.51 of 2013 in O.S.No.37 of 2011 dated 27.03.2013, dismissing the interlocutory application filed by the plaintiffs, who are the petitioners herein, praying for a direction to send the thumb impression said to have been obtained from one Krishnapillai by the

Sub-Registrar, Wallajahpet at the time of registering the alleged sale deed dated 05.04.1973 for the purpose of comparing the same with the admitted thumb impression of the said Krishnapillai by an handwriting expert.

2. Heard the learned counsels appearing for both sides and perused the materials.

3. The petitioners, who are the plaintiffs in the suit, filed the suit for declaration of their rights, title and interest over the suit property with consequential relief for injunction. The respondent/defendant, who is the subsequent purchaser of the suit property, resisted the suit claim. The plaintiffs trace their title, by purchase of suit properties vide registered sale deed, dated 19.12.1963 and the defendant trace their title to the suit properties vide registered sale deed dated 05.04.1973, which have been purchased by the vendors of the defendant.

4. The case of the petitioners was that the registered sale deed dated 05.04.1973 alleged to have been sold to the vendors of the defendant was not a genuine document and did not carry the actual thumb impression of the said Krishnapillai. In the circumstances, the Interlocutory Application in I.A.No.15 of 2013 was filed with the above mentioned prayer.

5. Counter was also filed on behalf of the respondent/defendant stating that there was no merit in the interlocutory application and prayed for dismissal of the said interlocutory application.

6. After hearing the parties, the learned trial Judge, vide order dated 27.03.2013 dismissed the interlocutory application as devoid of merits. The learned trial Judge had come to the conclusion on the ground that there was no admitted document and therefore, any comparison of the thumb impression in the absence of the admitted document would serve no purpose.

7. According to the trial Court, the mandatory requirement for signature investigation is, there must be documents, which have been admitted by the parties. As the mandatory requirement was not fulfilled, there may not be any comparison. Hence, the interlocutory application came to be dismissed. As against the above order, the Civil Revision Petition is filed.

8. The learned counsel for the petitioner impressed upon that originally, a part of the suit properties was sold by Krishnapillai on 24.03.1966 which was not disputed by the parties. The dispute was only with regard to the other portion of the suit properties, which was alleged to have been sold under the

registered sale deed dated 05.04.1973 to the vendors of the defendant. In the circumstances, the counsel for the petitioners prayed that the document dated 24.03.1966 being not a disputed one, the same can be compared for the purpose of finding the varacity of thumb impression as found in the subsequent document dated 05.04.1973.

9. The learned counsel appearing for the respondent vehemently opposed such relief prayed by the revision petitioner.

10. Considering the arguments advanced by the learned counsels appearing for the parties, this Court is of the view that thumb impression as affixed in the original sale deed dated 24.03.1966 can be compared in order to arrive at a just decision and to determine the rights of the parties, in respect of the suit claim. In such view of the matter, this Court allows the civil revision petition and sets aside the order passed by the trial Court dated 27.03.2013, dismissing the application in I.A.No.51 of 2013 in O.S.No.37 of 2011. The trial Court is directed to send the thumb impression of the said Krishnapillai, to the handwriting expert, for comparison as between the sale deeds dated 24.03.1966 and 05.04.1973 and thereafter, to finalize the suit proceedings as expeditiously as possible.

11.The Civil Revision Petition is allowed as indicated above. There shall be no order as to costs. Consequently connected miscellaneous petition is closed.

30.11.2016

To

The District Munsif, Ranipet.

V.PARTHIBAN, J.

adl

**Pre-Deliver order made in
CRP (PD) No.2312 of 2013
and M.P.No.1 of 2013**

30.11.2016