

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **09.11.2016**

CORAM:

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

C.R.P.(P.D.) No.358 of 2016

Noorunnissa : Petitioner
versus

1.Mehrunnissa
2.Haja Najimudeen : Respondents

PRAYER: Revision filed against the order dated 13.2.2015, in I.A.No.142 of 2014 in O.S.No.61 of 2012, on the file of the Principal Sub Court, Mayiladuthurai.

For petitioner :: Mr.S.Sounthar

For respondents :: Mr.P.Srividhya

ORDER

The respondents filed a suit for specific performance on the strength of a sale agreement. The petitioner filed a written statement denying the sale agreement. The Trial Court framed issues.

2. The petitioner filed an application after commencement of trial to send the suit document for expert opinion. The application was dismissed by the learned Trial Judge. The said order is under challenge in this civil

revision petition.

3. The learned counsel for the petitioner contended that the petitioner produced certain contemporaneous documents to examine the signature found in the sale agreement. The learned Trial Judge dismissed the application solely on the ground that the petitioner would have changed the signature while executing subsequent documents.

4. I have also heard the learned counsel for the respondents.

5. The first respondent filed a suit for specific performance. The suit was laid on the strength of a sale agreement. Execution of sale agreement has been denied expressly by the petitioner. It is therefore the bounden duty of the first respondent to plead and prove that the sale agreement was in fact executed by the petitioner. It is not as if the petitioner is bound to prove the negative.

6. The Trial Court appears to have framed an issue with regard to the genuineness of the sale agreement in question. It is for the first respondent to substantiate her contention that the sale agreement was actually executed by the petitioner. I am therefore of the view that the Trial Court was correct in dismissing the interlocutory application.

7. In the upshot, I dismiss the revision petition. No costs.
Consequently, C.M.P.No.1892 of 2016 is closed.

09.11.2016

Index:Yes/no
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To
The Principal Sub Court, Mayiladuthurai.

K.K.SASIDHARAN, J.

(tar)

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