

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.10.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.1106 of 2014
& M.P.No.1 of 2014

Rajathi

.. Petitioner

Vs.

P.Shanmugam
Respondent

..

PRAYER: Civil Revision Petition filed Under Article 227 of the Constitution of India against the fair and decretal order dated 02.08.2013 made in I.A.No.290 of 2013 in O.S.No.231 of 2009 on the file of the II Additional Subordinate Judge, Salem.

For Petitioner : Mr. S.Kalyanaraman

For Respondent : Not ready in notice

सत्यमेव जयते

ORDER

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This Civil Revision Petition has been filed against the order dated 02.08.2013 made in I.A.No.290 of 2013 in O.S.No.231 of 2009 on the file of the II Additional Subordinate Judge, Salem.

2. The petitioner is defendant and respondent is plaintiff in O.S.No.231 of 2009 on the file of the II Additional Subordinate Judge, Salem. The respondent filed the said suit for specific performance of agreement of sale dated 30.08.2008. The petitioner filed written statement on 10.12.2009, denying the signature in the agreement of sale. According to the petitioner, the signature in the agreement of sale is a forged one. The petitioner filed I.A.No.180 of 2009 for obtaining opinion of hand writing expert in respect of the signature found in the agreement of sale. The Trial Court, allowed the said application on 29.01.2010 and directed the petitioner to produce 10 documents containing admitted signature of the petitioner. The petitioner, challenging the said order, filed C.R.P.No.2518 of 2010. This Court, by the order dated 26.06.2013 modified the order of the Trial Court by directing the petitioner to produce 2 admitted signatures for comparison during the contemporary period 2008, on or before 10th July, 2013. The petitioner filed the present I.A.No.290 of 2013 to send the R.D Account opening form signed by her in the office of the Salem South Post Office, Salem town and proposal form signed by her in the office of LIC, Sankari for the Policy No.702578296 to compare

with the alleged signature found in the sale agreement dated 30.08.2008. The learned Judge, by the order dated 02.08.2013, dismissed the application on the ground that this Court directed the petitioner to produce 2 admitted signatures for comparison during the contemporary period, 2008 on or before 10th July, 2013 and petitioner did not comply with the said order.

3. Against the order of dismissal dated 02.08.2013 made in I.A.No.290 of 2013 in O.S.No.231 of 2009, the present Civil Revision Petition is filed by the petitioner.

4. Heard the learned counsel appearing for the petitioner and perused the materials available on record.

5. A reading of the earlier order of this Court made in C.R.P.No.2518 of 2010 reveals that the petitioner was directed to produce 2 admitted signatures for comparison during the contemporary period 2008 on or before 10.07.2013. The petitioner has filed present I.A, to send for 2 documents containing the admitted signature from the office of the Salem South Post Office, Salem town and proposal form signed in the office of LIC, Sankari

for the Policy No.702578296. The document of the R.D Account is signed in the year 2006 and LIC proposal form is signed in the year 2007. The Petition is send for the document of the years 2006 and 2007 to compare with the document of agreement of sale dated 30.08.2008. The learned Judge has committed an irregularity in dismissing the application on the ground that the petitioner did not comply with the order of this Court dated 26.06.2013 passed in C.R.P.No.2518 of 2010. This Court, directed the petitioner to produce 2 contemporary documents of the years 2006 and 2007, during the period 2008. The present application is in compliance with the order of this Court. In the present case, order of the learned Judge is liable to be set aside and is hereby set aside.

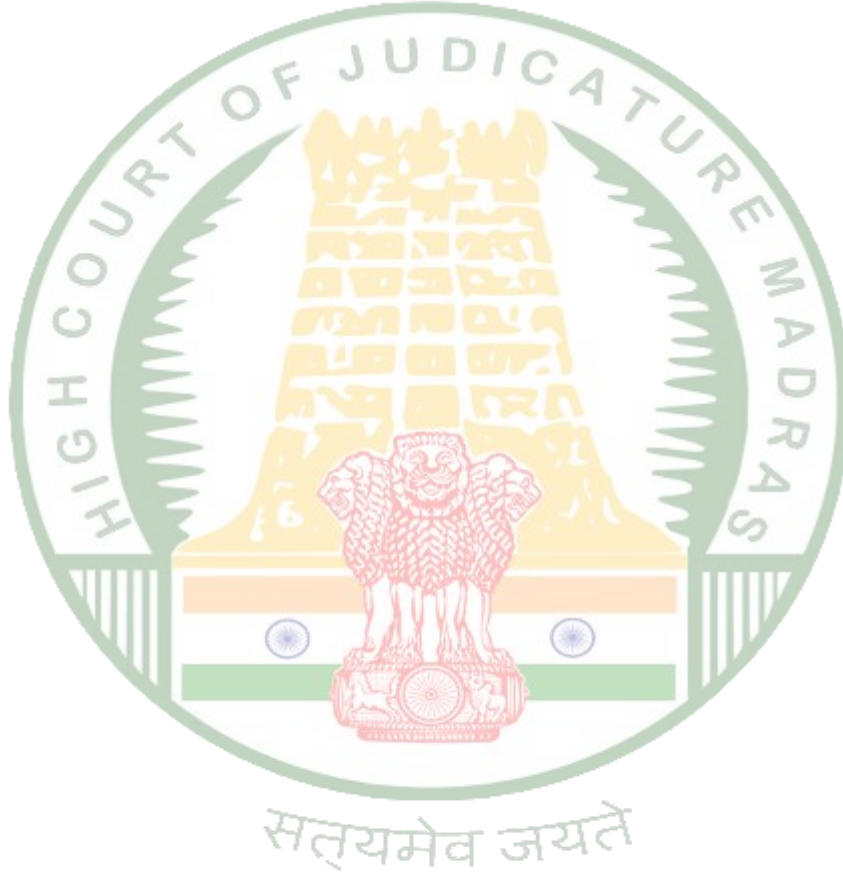
6. Accordingly, this Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

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Index: Yes/No
gsa

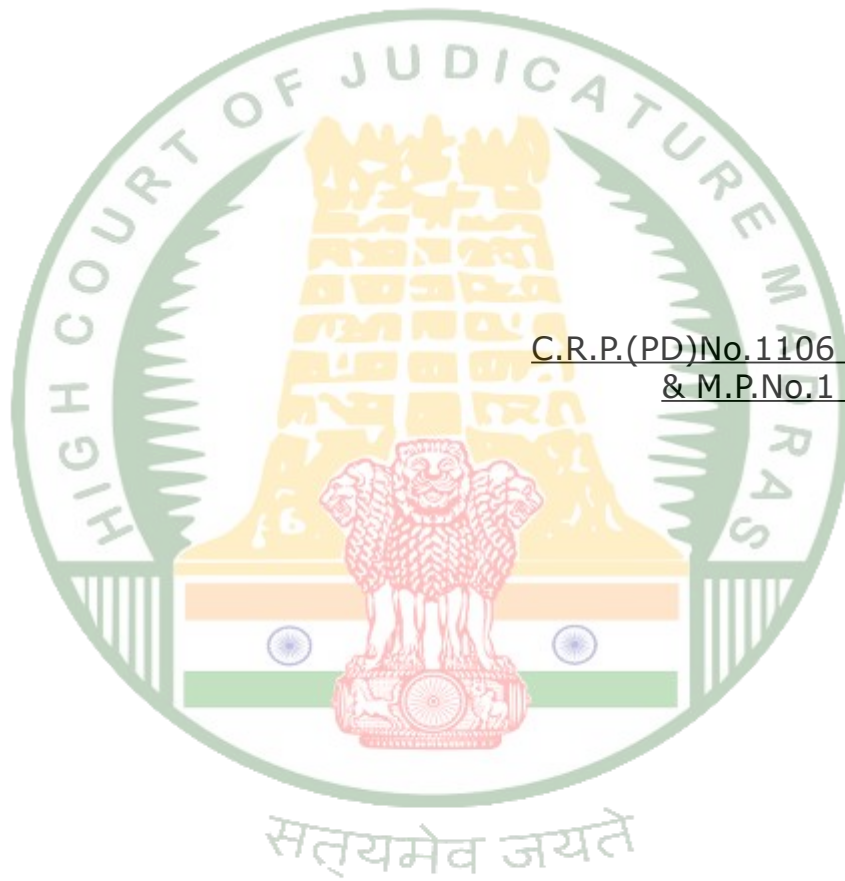
To
The II Additional Subordinate Judge,
Salem.



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V.M.VELUMANI,J.

gsa



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