

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.1531 of 2014
& M.P.No.1 of 2014

1.S.Lakshmi
2.S.Vijayakumar
3.S.Arunkumar
4.S.Rajkumar
5.S.Jasmin

.. Petitioners

Vs.

P.R.Sekar Reddy

.. Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decretal order dated 14.03.2014 made in I.A.No.17699 of 2013 in O.S.No.8004 of 2011 on the file of the learned VII Additional Judge, City Civil Court, Chennai.

For Petitioners : Mr.Sriram
for Mr.A.S.Kailasam

For Respondent : Mr.S.Kingston Jerold

ORDER

The Civil Revision Petition is filed against the fair and decretal order dated 14.03.2014 made in I.A.No.17699 of 2013 in O.S.No.8004 of 2011 on the file of the learned VII Additional Judge, City Civil Court, Chennai.

2. The petitioners are the defendants and respondent is the plaintiff in O.S.No. 8004 of 2011 on the file of the learned VII Additional Judge, City Civil Court, Chennai. The respondent filed the above suit for declaration to declare the settlement deed dated 31.01.2011, executed by the first petitioner in favour of the petitioners 2 to 5 registered as Document No.392 of 2011 at the office of the Sub Registrar, Konnur, as null and void, for permanent injunction and for recovery of possession. The first petitioner filed written statement in the month of February 2012 and is contesting the suit. The petitioners filed I.A.No.17699 of 2013 under Order VIII Rule 1-A(3) of C.P.C., for granting leave to the petitioner to file and receive the documents.

3. According to the petitioners, the first petitioner borrowed a

sum of Rs.10,00,000/- from the respondent and as a security, he deposited the title deeds of his properties and executed a power of attorney in favour of one Swati, wife of the respondent and the first petitioner executed an agreement of sale in favour of the respondent and in the event of her failure to repay the amount, to deal with the property in the manner known to law. The petitioners have contended that the paper containing the amount agreed to be received by the respondent is necessary to prove their case.

4. The respondent filed counter affidavit and opposed the said application and contended that the document sought to be marked is unstamped and unregistered document and the same cannot be marked as evidence. The petitioners have not stated anything about it in the written statement. The said document is hand written in the name of one Jayaraman. The respondent is not aware of the document and the said document has no relevance to decide the issue in the suit. The petitioners have come out with the present application only to drag on the proceedings and is trying to prove their case by marking fabricated documents.

5. The learned Judge, considering all the averments made in

the affidavit, counter affidavit and materials available on record, dismissed the application on the ground that the documents sought to be marked is a piece of paper. The petitioners have not given any reason for not filing the document along with the written statement and there is no averment in the written statement. There is no signature of the author of the document. The name of one Jayaraman is mentioned in the document. The petitioners have not disclosed the nexus between the said Jayaraman and the issue in the suit.

6. Against the said order of dismissal dated 14.03.2014 made in I.A.No.17699 of 2013, the present Civil Revision Petition is filed by the petitioners.

7. Heard the learned counsel for the petitioners as well as the respondent and perused the materials available on record.

8. The contention of the learned counsel appearing for the petitioners is that the learned Judge failed to consider the fact that in cross examination, the questions were put to P.W.1 with regard to Jayaraman and P.W.1 denied his hand-writing in the document and

stated that he has no objection for the document being sent to Forensic Department for obtaining opinion from hand-writing expert. These contentions have no relevance to receive the document and mark as evidence. The petitioners have not mentioned the document in the written statement and have not given any reason for non-filing of the document earlier. The petitioners have not stated the nexus between Jayaraman and issue in the suit. The P.W.1 has denied that the said document is in his hand-writing. The learned Judge has rightly considered all the above facts and dismissed the application by giving cogent and valid reason. In the circumstances, there is no illegality or irregularity warranting interference by this Court with the order of the learned trial Judge, dated 14.03.2014.

9. In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No

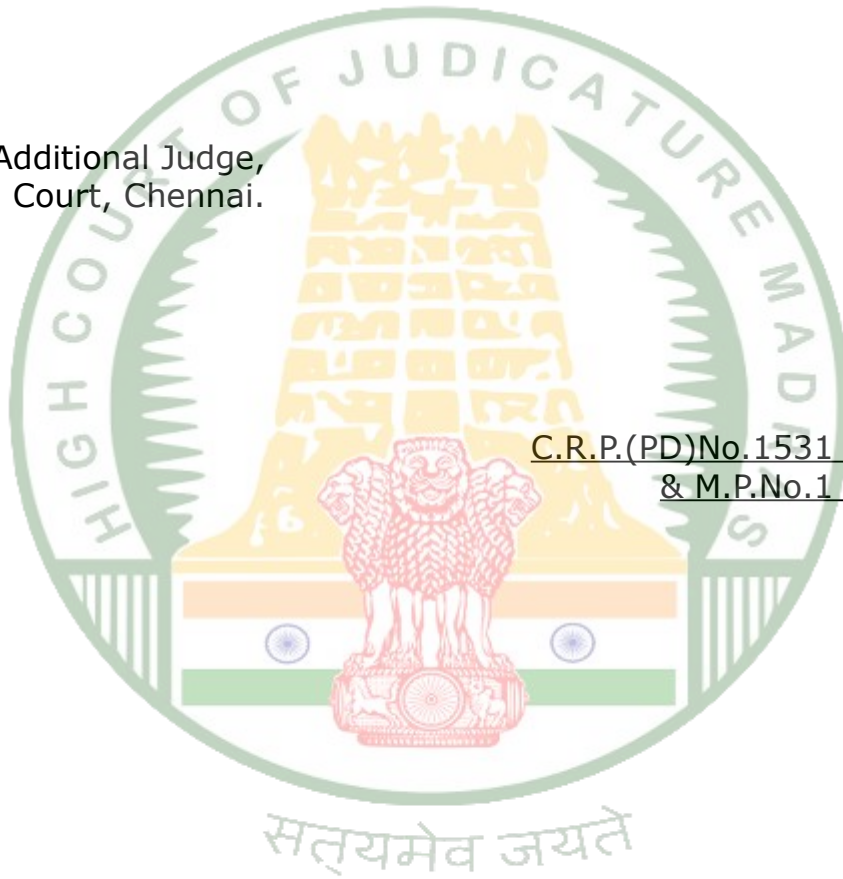
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V.M.VELUMANI, J.

dm

To

The VII Additional Judge,
City Civil Court, Chennai.



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