

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.01.2017

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THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

C.R.P.(PD) Nos.22 of 2017 and 23 of 2017
and C.M.P.No.158 of 2017

Sadayappa Gounder .. Petitioner in both C.R.Ps

Versus

1. Subramaniam
2. Saraswathi .. Respondents in both C.R.Ps

PRAYER: Civil Revision Petitions filed under Article 227 of the Constitution of India against the order and decretal order passed in I.A.No.510 of 2016 and I.A.No.511 of 2016 in I.A.No.122 of 2013 in O.S.No.9 of 2010 dated 01.11.2016 on the file of the Subordinate Judge, Gobichettipalayam.

For Petitioner in both C.R.Ps :Mr.A.Thiagarajan,
Senior Counsel for
Mr.S.Ramesh Kumar

COMMON ORDER

The first defendant is the petitioner in both the revision petitions.

2. (i) The suit is for specific performance. Earlier in I.A.No.122 of 2013, at the request of the defendants, an Advocate Commissioner was appointed to compare the signature in the suit agreement with that of the admitted documents, namely, gift settlement deeds dated 05.01.2009 and 26.05.2005. A revision petition filed challenging the same was also dismissed.

(ii) Thereafter, the present applications in I.A.Nos.510 and 511 of 2016 were filed by the defendants seeking to return the disputed documents, which were sent to the Forensic Lab, Chennai and send the same to the Directorate of Forensic Science, C.F.I.S Complex, Ramanthaputhur, Hyderabad 500 013 for obtaining an expert opinion.

(iii) The reason given by the revision petitioner is that the Forensic Lab, Chennai has sought for few more documents to be produced, that are executed between 2006 and 2008 for comparison.

The said applications were dismissed. Aggrieved by the said dismissal order, the first defendant has come up with the above revision petitions.

4. It is the contention of the learned Senior Counsel appearing for the petitioner that when already the expert was asked to give opinion based on the contemporaneous documents, dated 05.01.2009 and 26.05.2005 to be compared with the disputed signature found on the unregistered agreement, they cannot demand for additional documents to be compared with the admitted signatures. Therefore, the petitioner had asked for return of those documents from Forensic Lab, Chennai to be sent to Forensic Department, Hyderabad, as he has got no faith in the Forensic Lab, Chennai. The petitioner also contended that the Forensic Department should have returned the documents expressing inability to compare the same, but however the department has not returned the documents, but only asked for few more additional documents, wherein the signatures are found in the contemporaneous documents. The petitioner has expressed unnecessary apprehension and stated that the opinion ought to have been given based on the documents already

available with them. The learned trial Judge dismissed the applications stating that only a direction can be given to the Forensic Department to compare with the available documents and give a report. It is open to the petitioner to file objections, if any to the same or even cross examine the expert, but even before the report is filed, the defendant has come up with these applications to recall the documents, which were sent to the Forensic Lab, Chennai and to send the same to the Directorate of Forensic Science, Hyderabad, on flimsy reason, which cannot be entertained by this Court. The trial Court has also rejected the applications on the same ground and there is no infirmity in the order passed by the learned trial Judge.

5. Accordingly, these Civil Revision Petitions are dismissed. No costs. Consequently, connected miscellaneous petition is closed.

srn

12.01.2017

To

The Subordinate Judge,
Gobichettipalayam.

PUSHPA SATHYANARAYANA.J

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