

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.12.2017

Coram

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

C.R.P.(PD).No.4540 of 2017
and
C.M.P.No.21401 of 2017

R.Kumar

...Petitioner

Vs.

P.Rangasamy

...Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the orders of the II Additional District and Sessions Judge of Tiruppur, dated 02.11.2017 in I.A.No.618 of 2017 in O.S.No.50 of 2016 and allow the above C.R.P.

For Petitioner : N.E.A.Dinesh

For Respondent : No Appearance

ORDER

This Civil Revision Petition filed to set aside the orders of the II Additional District and Sessions Judge of Tiruppur, dated 02.11.2017 in I.A.No.618 of 2017 in O.S.No.50 of 2016 and allow the above C.R.P.

2. It is stated that the Trial Court has dismissed the application filed by the petitioner for the prayer sought in I.A.No.618 of 2017 in O.S.No.50 of 2016, in the light of the decision rendered by this Court in the case of (Kannamma Vs P.Sakunthala) in CRP.PD.No.156 of 2009, wherein it is held in paragraphs 9 and 10 as follows:

"9. In Thiruvengadam Pillai Vs. Navaneethammal and another, 2008 (4) SCC 530, the issue before the Supreme Court was regarding the observation made by the First Appellate Court about the failure on the part of the Defendants to prove that her signature was forged. By concurring with the views of the High Court, in setting aside the findings of the trial court, the Supreme Court observed thus:-

"19. The trial court had analysed the evidence properly and had dismissed the suit by giving cogent reasons. The first Appellate Court reversed it by wrongly placing onus on the defendants. Its observation that when the execution of an unregistered document put

forth by the plaintiff was denied by the Defendants, it was for the Defendants to establish that the document was forged or concocted, is not sound proposition. The first Appellate Court proceeded on the basis that it is for the party who asserts something to prove that thing; and as the Defendants alleged that that agreement was forged, it was for them to prove it. But the first appellate court lost sight of the fact that the party who propounds the document will have to prove it. In this case the plaintiff came to court alleging that the first defendant had executed an agreement of sale in his favour. The first defendant having denied it, the burden was on the plaintiff to prove that the first Defendant had executed the agreement and not on the first defendant to prove the negative. The issues also placed the burden on the plaintiff to prove the document to be true. No doubt, the plaintiff attempted to discharge his burden

by examining himself as also scribe and one of the attesting witnesses."

10. In P.Sood & Co., (Manufacturing) represented by its Partner, Krishna Kumar Sood Vs. Peerchand Misrimalji Bhansali, Prop, Meena Metals, (2005 (3) CTC 12), Division Bench of this Court opined that when the defendant denied the Signature in a particular document which is very much relied on by the plaintiff, it is for the plaintiff to take steps to ascertain the genuineness of the disputed signature by sending the document to hand writing expert.

3. In view of the aforesaid decision of this Court, there is no interference with the order passed by the Court below. Hence, the Civil Revision Petition fails and the same stands dismissed. No Costs. Consequently, the connected miscellaneous petition is closed.

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Index : yes/no

Internet : yes/no

Speaking / Non-speaking Order

To

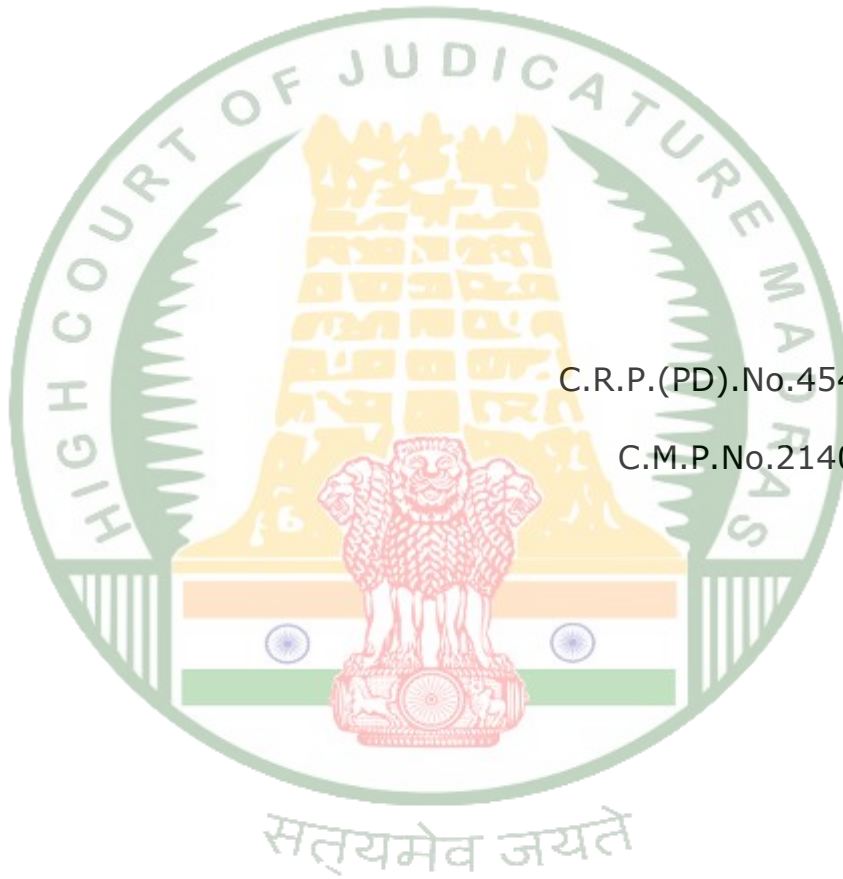
The II Additional District and Sessions Judge
Tiruppur.



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D. KRISHNAKUMAR, J.

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