

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2017

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

C.R.P.(PD).No.495 of 2017
and
C.M.P.No.2451 of 2017

P.Palanisamy Gounder

.. Petitioner

Vs.

R.Sowbhagyavathy

.. Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and final order dated 03.01.2017 passed in I.A.No.1051 of 2016 in O.S.No.94 of 2012 on the file of the First Additional District and Sessions Judge, Tirupur..

For petitioner : Mr.K.Sudhakar

For respondent : Mr.C.Veeraraghavan

ORDER

The defendant in the suit for specific performance, aggrieved by the order refusing to allow the application filed under Section 45 of the Indian Evidence Act, has come forward with this revision.

2. According to the revision petitioner/defendant, the sale agreement, dated 14.09.2009, bears the signatures in the first three pages and only the

signature in the fourth page is disputed. According to the defendant, the plaintiff's husband and other friends have forged and fabricated the sale agreement, dated 14.09.2009 with an intention to grab his property. Earlier, I.A.No.1176 of 2015 was filed for the same relief, which was dismissed, and in the revision petition, this Court has granted liberty to the revision petitioner therein to take out the said application at the appropriate stage. Now, the plaintiff had been examined as P.W.1 and then one of the attesting witness was also examined as P.W.2 to prove the execution of the sale agreement. The defendant is yet to commence his side of the evidence. At this stage, the present application has been filed by the defendant.

3. As stated earlier, the revision petitioner has admitted his signature in the first three pages of the sale agreement and the signature in the fourth page of the sale agreement alone is disputed. In such circumstances, the learned Additional District Judge has stated that since the three admitted signatures are available and when the fourth page signature is disputed, the Court itself can compare the signatures by itself and that the opinion of an expert is not required.

4. Though the Courts are empowered to compare the signatures, it should resist from doing so, as the Courts are not experts to compare the signatures and wherever possible and especially when the application has

been taken out for the said purpose, the Court should not dismiss the application filed for comparison of the signature by itself. Therefore, this Court is inclined to set aside the impugned order passed by the learned trial Judge and accordingly, I.A.No.1051 of 2016 in O.S.No.94 of 2012, filed by the revision petitioner/defendant, shall stand allowed. The Civil Revision Petition is allowed. No costs. C.M.P. is closed.

15.02.2017

CS

Copy to

The Additional District Judge,
Tirupur.

PUSHPA SATHYANARAYANA, J

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