

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.12.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD) No.2087 of 2015
and M.P.No.1 of 2015

R.Latha

...

Petitioner

Vs.

Mrs.Vishalakshi

...

Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 22.12.2014 in I.A.No.1149 of 2014 in I.A.No.1599 of 2013 in O.S.No.417 of 2012 on the file of District Munsif Court, Pollachi.

For Petitioner : Mr.C.R.Prasanan

For Respondent : Not ready in notice

ORDER

This Civil Revision Petition is filed against the fair and decreetal order dated 22.12.2014 in I.A.No.1149 of 2014 in I.A.No.1599 of 2013 in O.S.No.417 of 2012 on the file of District Munsif Court, Pollachi.

2. The petitioner is the plaintiff and the respondent is the second defendant in the suit in O.S.No.417 of 2012 on the file of District Munsif Court, Pollachi. The petitioner filed the above said suit against the respondent for permanent injunction restraining the respondent from interfering with his peaceful possession and enjoyment of the suit property. The respondent filed written statement on 18.11.2012 and is contesting the suit. The respondent filed I.A.No.1149 of 2014 to send the documents mentioned therein from the custody of Tamilnadu Mercantile Bank Ltd., Pollachi Branch. According to the respondent, she filed I.A.No.1599 of 2013 in O.S.No.417 of 2012 to send the agreement of sale dated 19.07.2011 for obtaining opinion from handwriting expert for the purpose of comparison of signatures found therein with the admitted signatures. The petitioner filed counter affidavit and opposed the said application. The said application was allowed on 01.07.2014. The Advocate Commissioner appointed by the Court forwarded the disputed signature and admitted signature to the Forensic Department.

3. The Forensic Department addressed a letter to the Advocate Commissioner to send some more admitted signatures of the respondent for comparison. The respondent is holding a Current Account bearing No.090150050800474 with M/s.Tamil Nadu Mercantile Bank, Pollachi Branch and she has issued eight cheques bearing Nos.14806 to 14811 ranging between the dates 30.05.2011 and 02.07.2011. Those cheques are available with the Tamil Nadu Mercantile Bank, Pollachi and hence she filed I.A.No.1149 of 2014 to send the documents mentioned therein from the custody of Tamilnadu Mercantile Bank Ltd., Pollachi Branch. The petitioner filed counter affidavit and opposed the said application. According to the petitioner, the respondent was given sufficient opportunity to produce the admitted signature and she cannot be allowed to fill in the gap by way of allowing the application and prayed for dismissal of the application.

4. The learned Judge, considering the averments in the affidavit, counter affidavit and the fact that the Court has already ordered I.A.No.1599 of 2013 for sending the agreement of sale dated 19.07.2011 for obtaining opinion from handwriting expert and

Advocate Commissioner has pointed out that the Forensic Department requires some more admitted signatures of the respondent for comparison, allowed the application.

5. Against the said order dated 22.12.2014 made in I.A.No.1149 of 2014 in I.A.No.1599 of 2013 in O.S.No.417 of 2012 on the file of District Munsif Court, Pollachi, the present Civil Revision Petition is filed by the petitioner.

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

7. The learned counsel for the petitioner contended that the learned Judge erred in allowing the document being taken out from the Court for comparison, contrary to the well established procedure. The document relates to the period from 30.05.2011 and 02.07.2011 while the agreement of sale is dated 19.07.2011 which came into effect on 19.07.2011. The court has ample power under Section 73 of the Evidence Act to compare the disputed signature with the admitted signature. The learned counsel for the petitioner further contended that the present relief is contrary to the

earlier contention raised in I.A.No.1599 of 2013. Those contentions are without merits to the facts of the present case.

8. Earlier, in I.A.No.1599 of 2013 filed by the respondent, the court ordered to obtain expert opinion with regard to the disputed signatures in the Agreement of Sale. The Advocate Commissioner appointed by the Court received a letter from the Forensic Department requiring some more documents with admitted signatures of the respondent for comparison and giving opinion. In view of the said requirement, the learned Judge has allowed the said application to send the cheques mentioned therein in the application. Even though the Court has power under Section 73 of the Evidence Act to compare the signature, the opinion of the handwriting expert will assist the court in coming to a correct conclusion. Further, the cheques in question relates to the period from 30.05.2011 and 02.07.2011 while the agreement of sale is dated 19.07.2011. These signatures in the cheques are contemporaneous signatures. In the said circumstances, there is no irregularity or illegality in the order impugned in this revision, warranting interference by this Court.

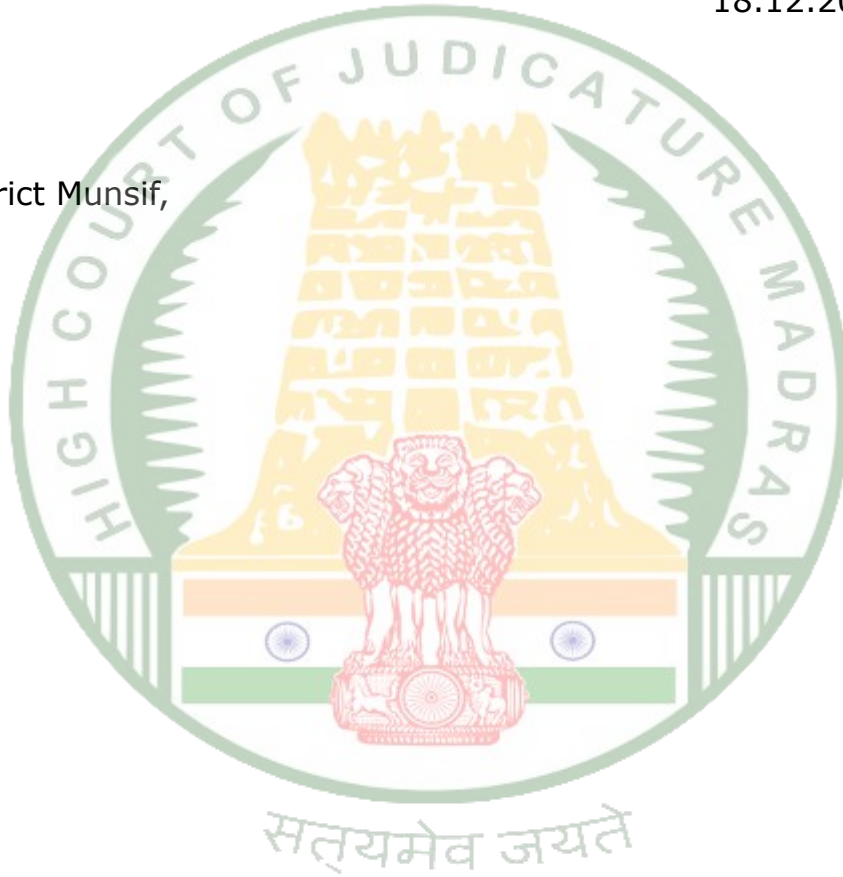
9. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

18.12.2017

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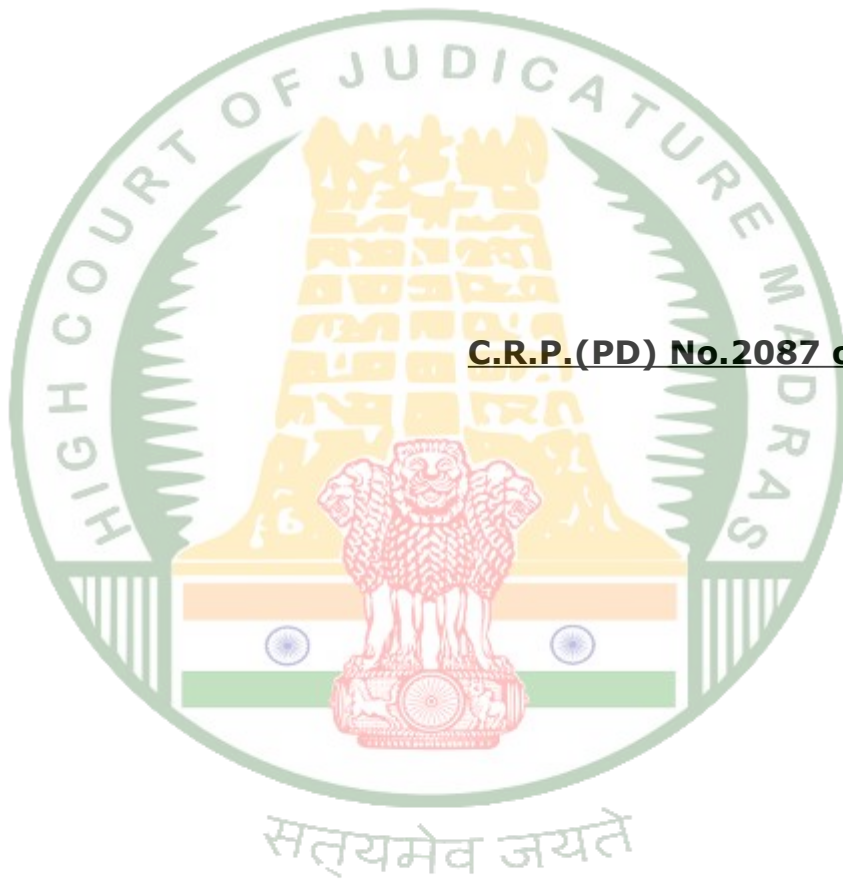
The District Munsif,
Pollachi.



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V.M.VELUMANI, J.

rgr



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