

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **27.06.2017**

CORAM:

THE HONOURABLE MS.JUSTICE **V.M.VELUMANI**

C.R.P.(PD)Nos.1924 and 1925 of 2016
and C.M.P.No.10027 of 2016

1.Y.Srinivasulu
2.Y.Yasodhammal
3.Y.Seetharamulu
4.Y.Aswathama
5.Y.Nagaraja
6.Y.N.Chandramohan

.. Petitioners in both the C.R.Ps.

Vs.

Roopavathyammal

..Respondent in both C.R.Ps.

COMMON PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order dated 06.01.2016 made in I.A.Nos.414 and 415 of 2014 in O.S.No.25 of 1997 on the file of Principal District Munsif, Kancheepuram, respectively.

For Petitioners : Mr.J.Ramakrishnan

For Respondent : Mr.G.Krishnakumar

COMMON ORDER

These Civil Revision Petitions have been filed against the fair and decretal order dated 06.01.2016 passed in I.A.Nos.414 and 415 of 2014 in O.S.No.25 of 1997 on the file of the Principal District

Munsif Court, Kancheepuram, respectively.

2. The petitioners are the defendants 1 to 6, and the respondent herein is the plaintiff in the suit. The Respondent filed the suit for declaration that the sale deed dated 21.09.1995 executed by the respondent in favour of the petitioners 1 to 6 as null and void and for consequential permanent injunction restraining the petitioners to deal with the suit property and not to interfere with the peaceful possession and enjoyment of the respondent. The respondent filed in I.A.No.1075 of 2000, for appointment of an Advocate Commissioner to obtain an opinion with regard to the signature and thumb impression in the sale deed. For comparing the signature and thumb impression, an Advocate Commissioner was appointed on 05.01.2006. The Advocate Commissioner filed a memo stating that he has obtained signature and thumb impression from the respondent in the Court itself. The petitioners submitted that the respondent has to produce the documents three years prior to the disputed documents. The said documents are in the Joint Registrar's office and therefore the petitioners could not produce the same for comparison. The Advocate Commissioner could not file the report and therefore, the

said I.A.No.1075 of 2000 was closed. Subsequently, the respondent filed I.A.No.588 of 2008 and the same was dismissed on 25.08.2008. Against the dismissal order passed in I.A.No.588 of 2008, the respondent filed a revision petition C.R.P.No.2114 of 2009 before this Court and the same was allowed on 29.11.2010. Thereafter, the Advocate Commissioner filed a memo on 17.11.2011 stating that warrant of commission issued by the Court was misplaced, due to the reason, that his office was shifted to some other place and sought for fresh Commissioner warrant. The fresh commissioner warrant was issued to the Advocate Commissioner. Earlier, the Advocate Commissioner gave a memo into the Court dated 27.03.2012 instructing that the learned counsel for the petitioners and the respondent are to be present with the parties. The petitioners filed two applications one in I.A.No.414 of 2014, seeking a direction to the respondent to file the documents either prior disputed documents or three years prior to the filing of the suit and the other in I.A.No.415 of 2014 to recall the fresh Commissioner warrant issued to the Advocate Commissioner.

3. The respondent filed the counter and opposed both the applications. Accordingly, the respondent has sought for comparison

of signature and thumb impression. The thumb impression will not change at any point of time and as per the orders of this Court in C.R.P.2114 of 2009, the Advocate Commissioner has to compare the signature and filed a report. The Court has issued a fresh warrant of commission on the ground that the memo filed by the Advocate Commissioner has stated that he has misplaced the original warrant of commission.

4. The learned Judge, considering the averments made in the affidavit, counter affidavit and relying on the order passed by this Court dated 29.11.2010 in C.R.P.No.2114 of 2009, dismissed both the applications.

5. Against the dismissal orders made in IA Nos.414 and 415 of 2014, the petitioners have filed the present Civil Revision Petitions.

6. Heard both sides and perused the materials available on record.

7. The petition for recalling the fresh warrant of commission issued to the Advocate Commissioner is without merits. The

Advocate Commissioner has stated that he has misplaced the warrant of commission issued to him and there is no irregularity in issuing warrant of commission. Similarly, the thumb impression of the respondent has to be compared with the disputed thumb impression filed in the sale deed. In view of the same, the production of contemporary document prior to the disputed signature and thumb impression is not necessary. The learned Judge dismissed both the applications. In the circumstances, there is no illegality or irregularity warranting interference by this Court in the order of the learned trial Judge, dated 06.01.2016.

8. Accordingly, these Civil Revision Petitions are dismissed. No costs. Consequently, connected Miscellaneous Petition is closed. Since the suit is in the year 1997, the learned Judge is directed to dispose of the suit in O.S.No.25 of 1997, on merits and in accordance with law, as expeditiously as possible and in any event, not later than three months from the date of receipt of a copy of this order.

27.06.2017

Index:Yes/No
jv/bri

V.M.VELUMANI,J.

Jv/bri

To

The Principal District Munsif,
Kancheepuram.

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