



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.02.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P(MD)No.226 of 2017 (PD)
and
C.M.P(MD)No.1016 of 2017

Ramaiah .. Petitioner/Petitioner/Respondent

Vs.

V.Subbulakshmi .. Respondent/Respondent/Appellant

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the Fair and Decreetal Order, dated 19.12.2016 in I.A.No.244 of 2016 in A.S.No.47 of 2013 on the file of the Principal District Judge, Tirunelveli.

For Petitioner : Mr.K.Chengiz Khan

ORDER

This petition has been filed by the petitioner to set aside the Fair and Decreetal Order, dated 19.12.2016 in I.A.No.244 of 2016 in A.S.No.47 of 2013 on the file of the Principal District Judge, Tirunelveli.

2.The petitioner is the plaintiff. The respondent is the defendant in the suit. The petitioner filed suit in O.S.No.201 of 2008 before the Principal Sub Court, Tirunelveli for specific performance of agreement of sale, dated 15.11.2007. After contest the suit was decreed by the judgment and decree, dated 04.02.2011. Against that, the respondent filed A.S.No.47 of 2013 before the Principal District Court, Tirunelveli. In the appeal, the respondent filed I.A.No.114 of 2014 to compare the signature of the appellant found in Ex.A1 agreement of sale with the signatures found in Ex.B2 and Ex.B3. The said application was allowed. The first appellate Court allowed the first appeal and remitted the matter to the trial Court for fresh trial after obtaining opinion from hand writing expert. By the order, dated 07.08.2015, the C.M.A.(MD)No.455 of 2015 filed by the petitioner was allowed and order of remand was set aside and directed the Principal District Judge, Tirunelveli to decide the appeal on merits after obtaining hand writing expert opinion. Thereafter, the petitioner filed I.A.No.244 of 2016 to call for two documents from the Subordinate Court, Tirunelveli i.e., receipt of notice in C.M.P., and injunction granted by the Sub Court in I.A.No.219 of 2008. The respondent denied having received the said documents and denied the signature in the said document. The



learned Judge considering the order passed by this Court in C.M.A. (MD)No.455 of 2015, dated 07.08.2015 and the fact that the respondent has denied the signature of the two documents mentioned in the petition, dismissed the application.

3. Against the said order of dismissal, the petitioner has filed the present Civil Revision Petition.

4. I have heard the learned counsel appearing for the petitioner and also perused the entire materials on record.

5. It is well settled that disputed signature can be compared only with admitted signature to get opinion from hand writing expert. It is also well settled that hand writing expert can give opinion only by comparing contemporaneous admitted signature with disputed signature. In the present case, the respondent denied her signature in the two documents mentioned by the petitioner. The petitioner has not produced any proof to show that signature in those two documents are the signature of the respondent. In the circumstances, the learned Judge has considered all the materials in proper perspective, dismissed the application and there is no illegality or irregularity warranting interference by this Court.

6. In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/
Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar.

To
The Principal District Munsif,
Tirunelveli.

+1CC to M/S.G.Prabhu Rajadurai, Advocate, SR.No. 6362

Copy to:

The Record Keeper,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.

C.R.P (MD) No.226 of 2017 (PD)

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