

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN

Civil Revision Petition No.5247 of 2016

Order:

Aggrieved by the rejection of her application for referring the thumb impression of the plaintiff contained in the plaint with the thumb impression of P.W.2, the 2nd defendant has come up with the present civil revision petition.

2. Heard Mr. Sai Gangadhar Chamarty, learned counsel for the petitioner.

3. The suit was for declaration of title and for recovery of possession. The case of the petitioner/2nd defendant is that she purchased the property from the 1st defendant. The positive case of the petitioner is that the present litigation was instigated by the brother of the 1st defendant.

4. When the suit was taken up for trial, the petitioner filed an application for referring the thumb impression of P.W.1, together with the thumb impression contained in the plaint for forensic examination. It was rejected by the Trial Court forcing the 2nd defendant to come up with this revision.

5. It was not the case of the petitioner in her written statement that what was contained in the plaint was not the thumb impression of the plaintiff but the thumb impression of someone else. On the contrary, the case of the petitioner is that the plaintiff was set up by the 1st defendant's brother. Therefore, all that the written statement disclosed was that it was the proxy litigation but not a litigation in which the

pleadings were signed by persons other than the parties to the litigation. In such an event, referring the thumb impressions for handwriting expert would not arise. The Trial Court was right in dismissing the application, hence, the revision is dismissed. It is always open to the petitioner to establish her own pleadings that it was a proxy litigation. The miscellaneous petitions, if any, pending in this revision shall stand closed. No costs.

V.RAMASUBRAMANIAN, J.

24th March, 2017.

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