

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2018

CORAM

THE HON'BLE MR. JUSTICE **D. KRISHNAKUMAR**

CRP.PD.No.448 of 2018
and CMP.No.2379 of 2018

S.Rajasekar

..Petitioner

Vs.

S.Jayakumar

..Respondent

PRAYER:

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order passed in IA.No.216 of 2016 in OS.No.172 of 2011 dated 12.12.2017 on the file of the II Additional Sub Judge, Villupuram.

For Petitioner : Mr.S.C.Vishwanth

ORDER:

The revision petitioner has filed a suit for specific performance in OS.No.172 of 2011 on the file of the II Additional Subordinate Judge, Villupuram on the basis of an agreement said to have been executed on 10.08.2008. In the aforesaid suit, the revision petitioner has also filed an application in IA.No.216 of 2016 under

Order 26 Rule 10 of the Civil Procedure Code read with Section 45 of the Evidence Act to refer the signature of the respondent for the expert opinion and appoint an Advocate Commissioner for the same. The court below has dismissed the said application. Therefore, the revision petitioner has filed the present Civil Revision Petition before this Court.

2. The learned counsel for the revision petitioner would submit that the respondent has specifically denied the said agreement in the written statement. Hence, the revision petitioner has filed the instant application to send the same to the expert opinion. But the court below has erroneously dismissed the said application. Therefore, the order passed by the court below is liable to be set aside.

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

4. In view of the facts and the submissions made by the learned counsel for the revision petitioner, admittedly, the revision petitioner has not filed any contemporary documents for comparing the signature in the sale agreement dated 10.08.2008. Further, the court below has held that the said application has been filed belatedly

at the time of trial. Therefore, the order passed by the court below is confirmed, there is no error or illegality in the order passed by the court below.

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

09.02.2018

Speaking/Non-speaking order
Index : Yes/No
Internet : Yes/No
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D.KRISHNAKUMAR. J,

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To

The II Additional Sub Judge,
Villupuram.



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