

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.03.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.990 of 2014
and M.P.No.1 of 2014

Indumathi

.. Petitioner

Vs.

K.Chander Rao

.. Respondent

Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decretal order dated 24.09.2013 made in I.A.No.225 of 2013 in O.S.No.2 of 2011 on the file of the Subordinate Court, Vaniyambadi.

For Petitioner : Mr.PA.Sudesh Kumar

For Respondent : Mr.M.Premkumar

ORDER

The Civil Revision Petition is filed against the fair and decretal order dated 24.09.2013 made in I.A.No.225 of 2013 in O.S.No.2 of 2011 on the file of the Subordinate Court, Vaniyambadi.

2.The petitioner is plaintiff and respondent is defendant in O.S.No.2 of 2011 on the file of the Subordinate Court, Vaniyambadi. The petitioner filed the said suit for specific performance of agreement of sale dated 20.11.2005. The respondent filed written statement on 05.07.2011 and denied his signature in the agreement of sale. The trial commenced, both the petitioner and respondent let in evidence and closed their side. When the suit was posted for arguments, the petitioner filed I.A.No.225 of 2013 under Order XXVI Rule 10A and Section 151 C.P.C. for comparison of the disputed signature of the respondent in Exs.B1 to B3 with his admitted signature in summons, vakalat, written statement and proof affidavit.

3.According to the petitioner, at the time of cross-examination, the respondent has stated that without his spectacles, he cannot say whether the signatures in Exs.B1 to B3 are his signatures and prayed for allowing the application.

4.The respondent filed counter affidavit and made various contentions on merits with regard to the evidence let in by the petitioner and also contended that the application filed by the petitioner is belated one.

5.The learned Judge considering the averments made in the affidavit, counter affidavit and the fact that the respondent has denied the agreement of sale during exchange of notice and in the written statement filed on 05.07.2011 itself, dismissed the application holding that the petitioner has not filed present application at the earliest.

6.Against the said order of dismissal dated 24.09.2013 made in I.A.No.225 of 2013 in O.S.No.2 of 2011, the present Civil Revision Petition is filed by the petitioner.

7.Heard the learned counsel for the petitioner as well as the respondent and perused the materials available on record.

8.The contention of the learned counsel for the petitioner is that the petitioner has filed application as the respondent did not admit his signatures in Exs.B1 to B3 during cross-examination, which necessitated the petitioner for coming out with the present application and also contended that there is no delay in filing the application. The said contentions are without merits. From the impugned order of the learned Judge, it is seen that not only in the

written statement, but also in the exchange of notice, the respondent has denied his signature in the agreement of sale. The written statement was filed on 05.07.2011 itself. But the petitioner has not taken any steps for comparison of the disputed signature of the respondent with his admitted signature till completion of trial and filed the present application only at the time of arguments.

9.The learned Judge has considered all the facts in proper perspective and dismissed the application by giving cogent and valid reason. There is no illegality or irregularity warranting interference by this Court with the order of the learned Judge dated 24.09.2013.

10.In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

27.03.2018

Index:Yes/No

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To

The Subordinate Judge, Vaniyambadi.

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V.M.VELUMANI,J.

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