

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.01.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)Nos.587 & 588 of 2015
& M.P.No.1 of 2015

C.Gunaseelan

.. Petitioner in
both C.R.Ps.

Vs.

1.Vijayakumar
2.C.Chandran

.. Respondents in
both C.R.Ps.

COMMON PRAYER: Civil Revision Petitions filed under Article 227 of the Constitution of India against the fair and decretal orders dated 13.11.2014 made in I.A.Nos.435 & 460 of 2014 in O.S.No.120 of 2012 on the file of the Principal District Munsif Court, Ambur, Vellore District.

For Petitioner : Mr.S.L.Sudarsanam

For R1 : Mr.K.Selvaraj

For R2 : No appearance

COMMON ORDER

These Civil Revision Petitions are filed against the fair and decretal orders dated 13.11.2014 made in I.A.Nos.435 & 460 of 2014 in O.S.No.120 of 2012 on the file of the Principal District Munsif Court, Ambur, Vellore District.

2.The petitioner is first defendant, first respondent is the plaintiff and second respondent is the second defendant in O.S.No.120 of 2012 on the file of the Principal District Munsif Court, Ambur, Vellore District. The first respondent filed the said suit against the petitioner and second respondent for specific performance of agreement of sale dated 20.01.2004 and 12.03.2004 and for permanent injunction restraining the petitioner and second respondent from interfering with his peaceful possession and enjoyment of the suit property. The petitioner filed written statement on 17.04.2013 and is contesting the suit. The petitioner filed two applications against the respondents in I.A.No.435 of 2014 under Order XXVI Rule 9 of C.P.C to appoint an Advocate Commissioner to send the Agreement of sale to the Forensic Department to get opinion of the handwriting expert and I.A.No.460 of 2014 under Order VII Rule 14(3) of C.P.C to condone the delay in filing the documents to compare the disputed signature in the sale Agreements with the admitted signature. According to the petitioner, the agreement of sale based on which the first respondent filed the suit is not executed by him and the second respondent. The signatures in the document are not their signatures. Therefore, it is necessary to send the said documents to

the Forensic Department to obtain opinion from the handwriting expert. The petitioner further stated that the three documents dated 27.12.1975, 13.05.1992 and 01.01.2014 were traced only recently. Those documents are necessary for comparison of disputed signature with admitted signature and prayed to condone the delay in filing those documents.

3.The respondents filed counter affidavit and denied all the allegations of the petitioner and submitted that the documents sought to be compared are not contemporaneous documents and therefore, it is not necessary to send the sale Agreements to Forensic Department for obtaining opinion from the handwriting expert.

4.The learned Judge, considering the averments in the affidavit, counter affidavit and the fact that two documents are of the years 1975 and 1992 are not contemporaneous documents to compare the disputed signature and the third document dated 01.01.2014 is subsequent to filing of the suit, dismissed both the applications.

5. Against the said orders of dismissal dated 13.11.2014 made in I.A.Nos.435 & 460 of 2014 in O.S.No.120 of 2012, the petitioner has come out with the present two Civil Revision Petitions.

6. Heard the learned counsel for the petitioner as well as the respondents and perused the materials available on record.

7. From the materials on record and impugned order of the learned Judge, it is seen that the petitioner is disputing his signature in the agreement of sale dated 12.03.2004. He also contended that he has not executed the said agreement of sale. In view of such stand, the petitioner has filed present two applications for obtaining opinion from the hand writing expert with regard to the signature found in the agreement of sale and to file report. From the affidavit filed in I.A.No.460 of 2014, it is seen that the petitioner has not filed any contemporaneous document relating to the period of agreement of sale dated 12.03.2004 for comparison. The documents now sought to be produced for comparison are of the years 1975, 1992 and 2014, whereas the agreement is dated 12.03.2004. It is well settled that only the signature within three (3) years of disputed signature can be compared for giving opinion. The learned Judge has considered all the above facts and dismissed the applications by

giving cogent and valid reason. There is no illegality or irregularity warranting interference by this Court with the orders of the learned Judge dated 13.11.2014 made in I.A.Nos.435 & 460 of 2014 in O.S.No.120 of 2012.

8.In the result, these Civil Revision Petitions are dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

11.01.2018

Index :: Yes
Internet :: Yes/No
gsa

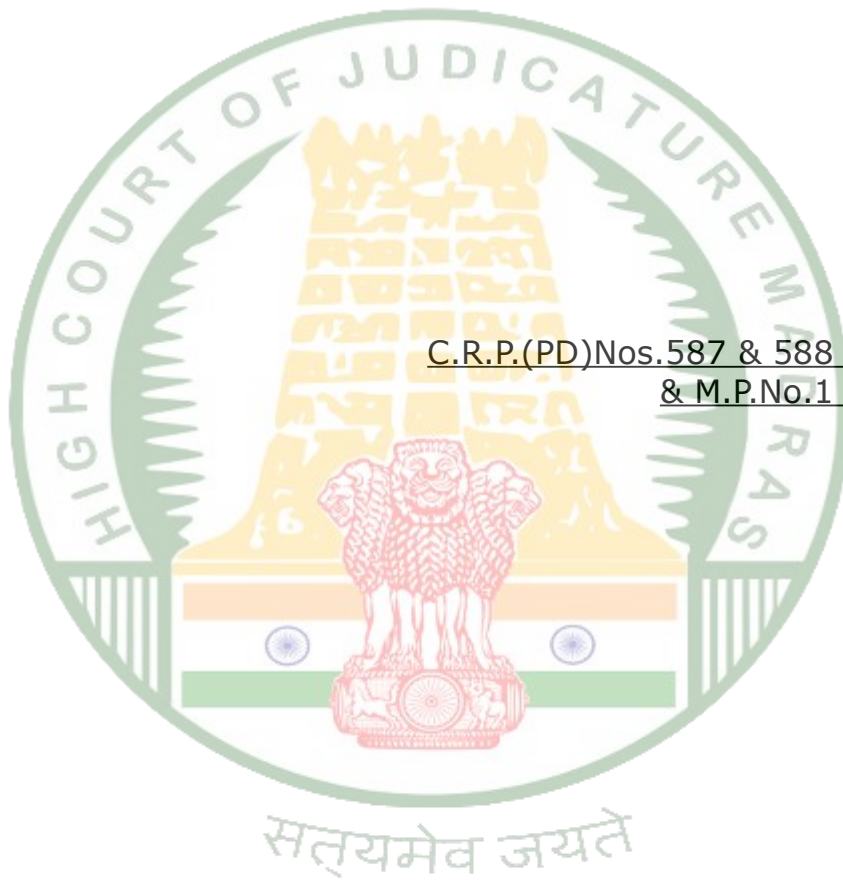
To

The Principal District Munsif,
Ambur, Vellore District.

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V.M.VELUMANI, J.

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