

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2018

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CRP (PD) No. 2779 of 2016
and
CMP. No.14203 of 2016

S. Govindarajulu

.. Petitioner

Vs

N. Ravi

.. Respondent

PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the judgement and decree dated 15.03.2016 made in I.A. No. 696 of 2014 in O.S. No. 23 of 2014 on the file of the District Munsif Court, Tiruvarur and pass further orders.

For Petitioner : Mr.B. Ramamoorthy

For Respondent : Mr. T. Srinivasa Raghavan

ORDER

This Civil Revision Petition is filed against the the judgement and decree dated 15.03.2016 made in I.A. No. 696 of 2014 in O.S. No. 23 of

2014 on the file of the District Munsif Court, Tiruvarur.

2. The learned counsel for the petitioner would submit that the petitioner, who is the defendant in the suit in O.S. No.23/2014, filed an application under Order 26 Rule 10(A) r/w Section 45 & 47 of the Indian Evidence Act, in I.A. No. 696 of 2014, seeking to compare his signature in other court records along with the alleged sale deed dated 01.07.2007. The said application was dismissed by the court below. Against the said order, the present revision petition is filed before this Court.

3. According to the petitioner, the signature in the lease agreement is denied by him and no prejudice would be caused to the respondent, if the revision petition is allowed.

4. The learned counsel for the respondent would submit that the trial court has rightly dismissed the application. In support of his contention, the learned counsel relies on the decision of this Court in the case of *P.Stanley Buck Vs. D.Govindaraj* reported in (2009) 7 MLJ 908.

5. Considered the facts and submissions made by the learned counsel for the both parties and perused the materials available on record.

6. The issue placed before this Court is that the burden lies on the plaintiff to prove the document to be true. As rightly pointed out by the learned counsel for the respondent, this Court has held in the case of ***P.Stanley Buck Vs. D.Govindaraj*** reported in (2009) 7 MLJ 908 and observed as follows in paragraphs 26 & 27:

"26. In *Thiruvengadam Pillai Vs. Navaneethammal and another*, 2008 (4) SCC 530: (2008) 2 MLJ 1115, the issue before the Supreme Court was regarding the observation made by the First Appellate Court about the failure on the part of the Defendants to prove that her signature was forged. By concurring with the views of the High Court, in setting aside the findings of the trial Court, the Supreme Court held thus at p.1124 of MLJ:-

"17. The trial court had analysed the evidence properly and had dismissed the suit by giving cogent reasons. The first Appellate Court reversed it by wrongly placing onus on

the Defendants. Its observation that when the execution of an unregistered document put forth by the plaintiff was denied by the Defendants, it was for the Defendants to establish that the document was forged or concocted, is not sound proposition. The first Appellate Court proceeded on the basis that it is for the party who asserts something to prove that thing; and as the Defendants alleged that the agreement was forged, it was for them to prove it. But the first appellate court lost sight of the fact that the party who propounds the document will have to prove it. In this case the plaintiff came to court alleging that the first defendant had executed an agreement of sale in his favour. The first defendant having denied it, the burden was on the plaintiff to prove that the first Defendant had executed the agreement and not on the first defendant to prove the negative. The issues also placed the burden on the plaintiff to prove the document to be true. No doubt, the plaintiff attempted to discharge his burden by examining himself as also scribe and one of the attesting witnesses...."

27. In *P.Sood & Co., (Manufacturing) represented by its Partner, Krishna Kumar Sood Vs. Peerchand Misrimalji Bhansali, Prop, Meena Metals*, (2005) 2 MLJ 603: (2005) 3 CTC 12, Division Bench of this Court opined that when the defendant denied the Signature in a particular document which is very much relied on by the plaintiff, it is for the plaintiff to take steps to ascertain the genuineness of the disputed signature by sending the document to hand writing expert."

7. In the light of the aforesaid judgement, the present application filed by the petitioner cannot entertained by this Court and the same is liable to dismissed.

8. Accordingly, the Civil Revision Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

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Index: Yes/ No

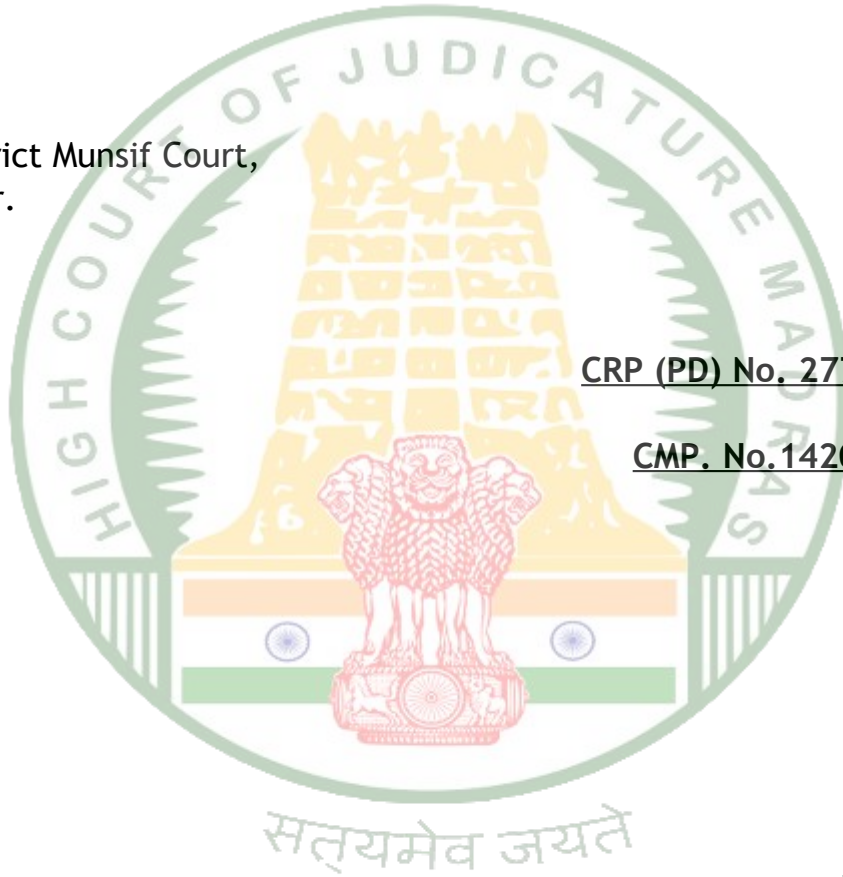
Speaking Order/Non Speaking Order

D. KRISHNAKUMAR J.,

avr

To

The District Munsif Court,
Tiruvarur.



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