



WEB COPY

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.09.2018

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (MD) No.2284 of 2017

and

C.M.P. (MD) No.11096 of 2017

A.Ramar

... Petitioner

vs

1.S.Dileep Kumar

2.Azhagumurugan

3.V.Malaichamy

4.T.Sekar

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair order and executable order dated 09.10.2017 made in I.A.No.83 of 2016 in O.S.No.48 of 2012 on the file of the Principal District Judge, Theni.

|                |                         |
|----------------|-------------------------|
| For Petitioner | : Mr.R.Suriyanarayanan  |
| For R1         | : Mr.B.Rajesh Saravanan |
| For R2         | : Service awaited       |
| For R3 & R4    | : No appearance         |

#### ORDER

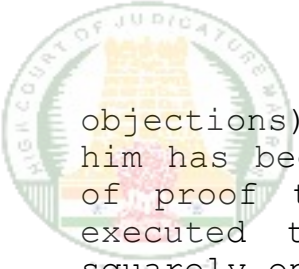
The first defendant in O.S.No.48 of 2012 on the file of the Principal District Judge, Theni is the revision petitioner herein.

2.It is a suit for specific performance. The revision petitioner has denied the signature attributed him in the sale agreement. Such a stand has been specifically taken in the written statement.

3.During the course of cross examination of P.W1, the plaintiff has expressed his readiness to subject the document in question for expert opinion. The suit agreement was also marked only subject to objections.

4.In this circumstances, I.A.No.83 of 2016 was filed by the first defendant. The Court below dismissed the same by giving a finding that the defendant has already admitted the execution of the suit agreement. It is this that impelled the first defendant to file this civil revision petition.

5.The plaintiff has laid the suit in question on the strength of the agreement dated 26.09.2011 marked as Ex.A1 (subject to



objections). In the written statement, the signature attributed to him has been denied by the first defendant. Therefore, the burden of proof to establish that the revision petitioner had actually executed the sale agreement dated 26.09.2011 in question lies squarely on the plaintiff.

6.This Court vacates the adverse finding given against the revision petitioner in the order impugned in this civil revision petition. It is made clear that this issue will be canvassed in the main suit. The issue is left open. It is for the plaintiff to establish that the agreement in question was executed by the first defendant.

7.With this observation, this civil revision petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CRL.SIDE)

/True Copy/

Sub Assistant Registrar(CS-I)

To  
The Principal District Judge,  
Theni.

+ 1 CC TO Mr.R.Suriyanarayanan , ADVOCATE IN SR No.84902.

+ 1 CC TO Mr.B.Rajesh Saravanan , ADVOCATE IN SR No. 84446.

MM

DS SKN SAR-1 24 10 2018 2P 4C

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