



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.09.2018

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (MD) .Nos.1455 & 1456 of 2016 and
C.M.P. (MD) No.7133 of 2016

N.Chellappa

... Petitioner/Petitioner
in both petitions

Vs .

1. S.Subramanian
2. Shanmuga Lakshmi
3. S.Muppidathi
4. N.Ramanathan

... Respondents/Respondents
in both petitions

COMMON PRAYER : Civil Revision Petitions are filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 24.03.2016 passed in I.A.Nos.61 and 60 of 2016 in O.S.No.86 of 2008 on the file of the Additional Sub Court, Tirunelveli, by allowing this Civil Revision petition.

(in both C.R.Ps.)

For Petitioner	: Mr.V.Meenakshi Sundaram, for Mr.D.Nallathambi
For R-1 & R-3	: Mr.G.Newton Raj
For R-2	: Mr.K.Gokul
For R-4	: Dispensed with.

COMMON ORDER

The plaintiff in O.S.No.86 of 2008 on the file of the Additional Subordinate Court, Tirunelveli, is the Revision petitioner herein. It is a suit for declaration, permanent injunction and mandatory injunction. The case of the plaintiff is that he has been impersonated and a fraudulent Power of Attorney has come into existence in his name. When the case had progressed to the stage of arguments, the plaintiff filed two Interlocutory applications. One for reopening and the other for summoning a relevant record for expert opinion. The Court below by the order



impugned herein dismissed both the Interlocutory applications. Challenging the same, these Civil Revision petitions have been filed.

2. Heard the learned counsel on either side.

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3. No doubt as contended by the learned counsel for the contesting respondents, the petitioner herein has not been diligent in his approach. He should have filed these applications long back. In fact, the Revision petitioner herein had earlier filed an application to send for the signature found in respect of such document. The said application was allowed. The disputed signature was in Tamil. It could not be compared with the admitted signatures which were in English. Hence, the aforesaid exercise undertaken by the Revision petitioner ended in vain. It also appears that he had taken out a similar application way back in the year 2010. But for non-payment of Batta, the said application got closed. The suit is of the year 2008. The present application was filed only in the year 2016. Though the reasons given by the Court below for dismissing the said application filed by the Revision petitioner are sound, in order to render substantial justice and to give quietus to the issue, this Court is of the view that the orders impugned in these Civil Revision petitions deserve to be set aside.

4. What the Revision petitioner seeks to call for is only the thumb impression register. The respondents express their apprehension that since 16 years have lapsed, in the meanwhile, even the expert opinion obtained in this regard may not be of much value.

5. Therefore, leaving these aspects open to argument, this Court sets aside the orders impugned in these Civil Revision petitions. The Civil Revision petitions stand allowed, accordingly.

6. The Revision petitioner will have to put on necessary terms. The contesting respondents have engaged two counsels. Therefore, the cost will have to be borne by the petitioner. The Revision petitioner shall pay a sum of Rs.5,000/- (Rupees Five Thousand only) each to the two counsel appearing for the respondents herein. This shall be done within a period of two weeks from the date of receipt of a copy of this order. If the Revision petitioner herein fails to pay the said amount, the order passed in these Civil Revision petitions will stand recalled and the Civil Revision petition shall be dismissed.

7. The suit is of the year 2008. The exercise of obtaining copies of court records will be concluded within a period of three months. The suit will be disposed of on merits and in accordance with law, within a period of three months, thereafter.



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Consequently, connected Miscellaneous petition is

Sd/-

Assistant Registrar (Writs)

/True Copy/

Sub Assistant Registrar (CS-III)

To

The Additional Subordinate Judge,
Tirunelveli.

+ 1 CC TO Mr.G.NEWTON RAJ, ADVOCATE IN SR No. 86311
+ 1 CC TO Mr.D.NALLATHAMPI, ADVOCATE IN SR No. 86410

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TE/PM/SAR-3 : 25/10/2018 : 3P/4C

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