



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.09.2018

CORAM

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

WEB COPY

C.R.P. (MD) (PD) .Nos.952 & 953 of 2016 and
C.M.P. (MD) No.4789 of 2016

M.Udhuman Muhideen

... Petitioner/Petitioner/
Plaintiff in both Cases

Vs.

1. Jainambu Beevi
2. P.M.Shahul Hameed
through his power agent
Hameedha Begam,
W/o.Ahamed Meeran

... Respondents/Respondents/
Defendants in both Cases

COMMON PRAYER : Civil Revision Petitions are filed under Article 227 of the Constitution of India, to set aside the fair and decreetal orders passed in I.A.Nos.39 and 40 of 2016 in O.S.No.98 of 2009 on the file of the learned Additional Sub Judge, Tenkasi, dated 29.02.2016.

(in both petitions)
For Petitioner : Mr.M.P.Senthil

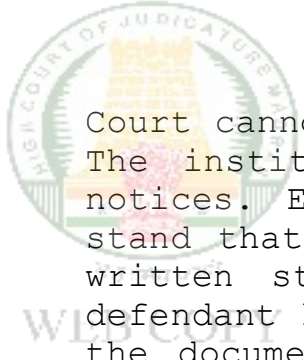
For Respondents: Mr.S.P.Maharajan

C O M M O N O R D E R

The plaintiff in O.S.No.98 of 2009 on the file of the Additional Sub Court, Tenkasi, is the Revision petitioner herein. The said suit is one for declaration and recovery of possession. The suit has been laid on the strength of a registered document said to have been executed by the first defendant Jainambu Beevi. To refer the document in question for expert opinion, I.A.No.40 of 2016 was filed. The said application was dismissed by order dated 29.02.2016. The correctness of the said order is challenged in C.R.P. (MD) No.953 of 2016.

2. Heard the learned counsel on either side.

3. The learned counsel appearing for the Revision petitioner placed reliance on the decisions of this Court reported in **2010** <https://hcservices.ecourts.gov.in/hcservices/> **(1) M.W.N. (Civil) 413 (S.Chinnathai V. K.C.Chinnadurai)** and **2013 (2) C.T.C. 394 (Saharban Beevi V. S.Mumtaj)**. But then, this



Court cannot lose sight of the conduct of the Revision petitioner. The institution of the suit was preceded by exchange of legal notices. Even in the reply notice, the first defendant taken a stand that she did not execute the document in question. In the written statement filed as early as on 27.11.2009, the first defendant had again reiterated her stand that she did not execute the document in question. When the stand of the first defendant was made abundantly clear even in November 2009, there was no justification in belatedly filing I.A.No.40 of 2016 to refer the document in question for expert opinion.

4. As rightly pointed out by the learned counsel appearing for the contesting respondent, by then, the suit had progressed to the stage of arguments. Therefore, the Court below has rightly observed that the plaintiff only wants to needlessly drag on the proceedings. An application of this nature will have to be filed in time and not at the last moment, when the matter is posted for arguments.

5. The reasons given by the trial Court are sound and acceptable. There is no merit in these Civil Revision petitions. The Civil Revision petitions stand dismissed, accordingly. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar (RTI)

// True Copy //

Sub Assistant Registrar(CS-III)

To

1. The Additional Sub Judge, Tenkasi.
2. The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court, Madurai.(2 Copies)

+ 1 CC TO MR.M.P.SENTHIL, ADVOCATE IN SR NO.81994
+ 1 CC TO MR.S.P.MAHARAJAN , ADVOCATE IN SR NO.81928

PMU

BU/PM/SAR-III :25.10.2018 : 2P/6C

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