



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.08.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (MD) No.1709 of 2018

and

C.M.P. (MD) .No.7360 of 2018

V.Pappammal

... Revision Petitioner/ Defendant

vs.

N.S.Choodamani

... Respondent/ Plaintiff

PRAYER : Civil Revision Petition filed under Section 115 of the Civil Procedure Code, against the fair and decretal order dated 12.06.2018 made in I.A.No.1547 of 2017 in O.S.No.347 of 2011 on the file of the learned Principal District Munsif, Dindigul.

For Petitioner : Mr.G.Gomathi Sankar

ORDER

The revision petitioner is the defendant in O.S.No.347 of 2011 on the file of the learned Principal District Munsif, Dindigul. The respondent herein filed the said suit seeking the relief of declaration and permanent injunction in respect of the suit property. The case of the plaintiff is that the property in question originally belonged to the defendant and that on 08.08.1975, she had sold the same in favour of one Ramadoss, from whom the present plaintiff traces her title. The plaintiff contends that she purchased the property from one Kathiriappa Gounder in the year 1995 through a registered sale deed. The defendant however denied that she executed the sale deed dated 08.08.1975. The suit was filed in the year 2011. The revision petitioner filed I.A.No.1547 of 2017 in September, 2017 for referring the thumb impression found in the sale deed dated 08.08.1975 for forensic opinion. The said IA has been dismissed by the trial Court by order, dated 12.06.2018. The same is assailed in this civil revision petition.

2. The learned counsel for the revision petitioner reiterated the contentions set out in the memo of grounds. This Court is unable to agree with the contentions of the learned counsel for the revision petitioner. The order impugned in this civil revision petition deserves to be sustained for more reasons than one. The revision petitioner is only a defendant in the suit. She had denied the execution of the document in question. Therefore, the burden lies only on the plaintiff to prove that the sale deed dated 08.08.1975 was actually executed only by the defendant. That apart



as rightly pointed out by the Court below, the revision petitioner herein had already lodged a criminal case against the respondent herein in this regard. Expert opinion had already been obtained in this regard and the same can very well be relied upon by the party, who seeks the assistance of the said report. Of course, if the revision petitioner wants to contest the correctness of the said report, she can have the expert cross examined. Since already an expert report in respect of the disputed documents is very much available, there is no need to once again refer the matter for expert opinion. The reasons set out in the impugned order are very much sustainable in law. Therefore, this Court finds no merit in the civil revision petition.

3. Hence, this Civil Revision Petition is dismissed. No Costs. Consequently, connected miscellaneous petition is dismissed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar (CS-III)

To

1.The District Munsif,
Ramanathapuram.

2. The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.(2 Copies)

+1CC to Mr.G.Gomathi Sankar Advocate in Sr.No.77577.

PJL

DS SKN SAR-2 ;29.08.2018; 2P/5C

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