



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:05.06.2018

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

C.R.P. (MD) No.1576 of 2013 (PD)
and
M.P. (MD) No.1 of 2013

Balu @ Balachandran ... Petitioner/Petitioner/Defacto
Complainant

Vs.

Kirupanandam ... Respondent/Respondent/Plaintiff

PRAYER: Civil Miscellaneous Petition filed under Section 227 of Constitution of India, to call for the records and set aside the fair and decreetal order in I.A.No.58 of 2013 in O.S.No.14 of 2012 on the file of the Additional Subordinate Judge, Kumbakonam and allow this Civil Revision Petition.

For Petitioner : Mr.T.V.Sivakumar

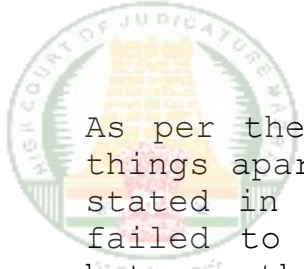
For Respondent : Mr.V.Chandrasekar

ORDER

This Civil Revision Petition is filed by the defendant in the suit in O.S.No.14 of 2012 on the file of Additional Subordinate Court, Kumbakonam as against the order of dismissal of the petition filed by him seeking to get expert opinion in respect of the document in question.

2.The respondent herein filed a suit for permanent injunction and restraining the defendant/revision petitioner from interfering with the peaceful possession and enjoyment of the property and for recovering a sum of Rs.1,05,000/- by way of compensation.

3.The case of the respondent in the suit is that the suit property belonged to Arulmigu Mahalingam Temple and that the said property has been enjoyed by the plaintiff by way of lease. The respondent further stated that the lease deed dated 30.06.1997 was executed in favour of the plaintiff and that the same also was recorded by the Record Officer under Act 10 of 1989. It is further stated in the plaint that the defendant was given a licence to pluck the fruits from the standing trees and that as per the handwritten receipt, the defendant has agreed to pay certain amount as premium.



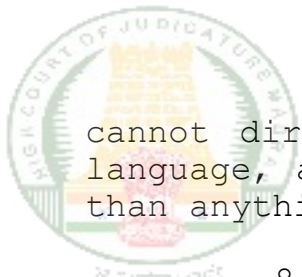
As per the agreement, the defendant has also agreed to do certain things apart from the premium, he had agreed upon. It is further stated in the plaint that the defendant has committed default and failed to maintain the orchard as per the agreement entered into between the plaintiff and the defendant. Since the defendant was given only a licence, it is further stated that plaintiff cancelled the agreement by a notice dated 19.08.2011 and demanding a sum of Rupees One Lakh. Though a reply was sent by defendant disputing default, the plaintiff denied the averments in the reply and instituted a suit for permanent injunction and for recovery of a sum of Rs.1,05,233/- as compensation.

4.The defendant in the written statement has denied the averments made by the plaintiff stating that he is entitled to the benefits of the Tamil Nadu Cultivating Tenants (Protection) Act, 1955. It is further stated that the defendant has partly paid the amount on various occasions. During pendency of the suit, the revision petitioner filed a petition in I.A.No.58 of 2013 to appoint a Handwriting expert to get his opinion regarding the plaintiff's signature in Ex.B1, dated 11.12.2005, stating that some of the receipts referred by him in the written statement were supported by the endorsement on the backside of the agreement signed by the plaintiff. It is further stated that the plaintiff has admitted the agreement executed on 11.12.2005 but denied the endorsements made on the backside of the agreement.

5.In these circumstances, for the purposes of proving that the endorsement made on the backside of the agreement was made by the plaintiff, the defendant filed the petition for the purpose of getting an handwriting expert's opinion and to have scientific investigation of the signature of the plaintiff, on few dates on the backside of the agreement dated 11.12.2005, namely, Ex.B1 and thereby, directing him to submit his report with remarks within a stipulated time.

6.It is not in dispute that the agreement under Ex.B1 is written in Tamil but the signature of the plaintiff is in English. However, the signatures found in the endorsement are in Tamil. Hence, the trial Court dismissed the petition filed by the revision petitioner on the ground that it is not permissible to compare the signatures in the agreement and the endorsements which are in different language. After finding that the signatures of the plaintiff in the plaint, vakalat and other documents are in English, the petition filed by the revision petitioner was dismissed as the comparison can not be made by the expert.

7.The learned counsel appearing for the revision petitioner submitted that the defendant has another option to get the opinion from the expert by sending another document containing the writing of plaintiff in tamil as the defendant is not in possession of any other document containing the signature of plaintiff in Tamil. The difficulty of the plaintiff is understandable, however, this Court



cannot direct comparison of signatures which are not in the same language, as an expert's opinion will only create confusion rather than anything useful.

8. Having regard to the admitted facts in this case, this Court is not inclined to entertain the Civil Revision Petition. This Court is of the view that the trial Court is right in dismissing the petition. Further,, it is not practically possible and advisable to compare the signature of a person which is written in different languages. However, liberty is given to the petitioner to file a fresh petition to compare the writings of the plaintiff which are in Tamil with the signature found in the document (Ex.B1). However, it is also open to the respondent to raise any legal objections, if an application is filed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True copy/

Sub Assistant Registrar

To

The Additional Subordinate Judge,
Kumbakonam.

Copy to :

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

+1cc to Mr.V.Chandrasekar, Advocate, SR.No.66994.

+1cc to M/s.H.Lakshmi shankar, Advocate, SR.No.66753.

C.R.P. (MD) No.1576 of 2013 (PD)
and
M.P. (MD) No.1 of 2013
05.06.2018

rmi

RAM/JC/SAR 3/29.06.2018/3P/6C