

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 06..12.2019
CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Civil Revision Petition No.2357 of 2015
and
M.P.No.1 of 2015

S.Balakrishnan ... Petitioner/Plaintiff

-Versus-

1.M.Ponnusamy

2.P.Santhamani

... Respondents /Defendant

Petition filed under Article 227 of the Constitution of India, praying to set aside the order and decretal order dated 09.04.2015 made in I.A.No.273 of 2015 in I.A.No.380 of 2014 in O.S.No.186 of 2010 by the learned Subordinate Judge, Perundurai.

For Petitioner : Mr.L.Mouli

For Respondent(s) : No Appearance

ORDER

This revision petition is directed against the order of dismissal of the interlocutory application whereby the court below has refused to review its earlier order, not accepting the petitioner's prayer to forward the sale agreement in question containing the disputed signature for comparison by a hand writing expert with the admitted signatures of the 1st defendant.

2. The petitioner is the plaintiff. The respondents are defendant in the suit. The said suit has been filed for specific performance of an agreement of sale dated 04.11.2015. The 1st respondent disowned his signature in the sale agreement. Therefore, pending suit, the petitioner filed an application praying to forward the suit agreement containing the disputed signature for comparison by a hand writing expert with that of the admitted signatures of the 1st respondent and for his opinion. The 1st respondent vehemently opposed the petitioner. That application was dismissed by the court below on the ground that the petitioner failed to produce the documents containing the admitted signature of the 1st respondent of contemporaneous period. According to the petitioner, after dismissal of the application, he came to be in possession of two documents

containing the admitted signatures of the 1st defendant which are contemporaneous to the sale agreement in question. Therefore, he had to file an application to review the earlier order refusing to forward the disputed sale agreement for expert opinion. The grievance of the petitioner is that court below without considering the case of the petitioner had come to an erroneous conclusion that the petitioner though the contemporaneous documents were in his possession, he had not taken any diligent steps to produce the same and dismissed the application.

3. This revision petition is coming up today for admission. Despite service of notice and the name having been printed in the cause list, neither the respondents are present in person nor represented by a counsel.

4. I have heard the learned counsel for the petitioner and also perused the records carefully.

5. The earlier application filed by the petitioner seeking to forward the disputed sale agreement for expert opinion was dismissed on the ground that he did not take any diligent steps to produce the document containing the admitted signature of the 1st defendant. Admittedly, it is the case of the petitioner that he came to be in possession of the documents containing the admitted signature of the 1st defendant of the contemporaneous period only after the dismissal of the earlier application for expert opinion and there is no error apparent on the face of the order and as rightly concluded by the court below there was no sufficient ground to review the order. If at all the petitioner still feels that the disputed sale agreement should be forwarded for expert opinion, it is always open to the petitioner to file a fresh application in accordance with law. If any such application is filed, it is for the trial court to decide the same on its own merits without influenced by any of the observations made by it in the earlier application for expert opinion and this revision petition fails.

In the result, this civil revision petition is dismissed. No costs. Consequently, connected MP is closed.

sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

kmk

To

The Subordinate Judge,
Perundurai, Erode District.

Civil Revision Petition
No.2357 of 2015

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