



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.07.2019

CORAM

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THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

C.R.P. (MD) (PD)No.1103 of 2012

and

M.P. (MD)No.1 of 2012

Marimuthu

:Petitioner

vs.

1.R.Anjammal

2.Nadiammal

3.Ammu

:Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and decreetal order passed on 28.02.2012 by the learned District Munsif, Thanjavur, in I.A.No.83 of 2012 in O.S.No.183 of 2009.

For Petitioner

:Mr.R.Udhayakumar

For R1 and R2

: Mr.D.Senthil

For R3

: No Appearance

ORDER

The plaintiff in the suit in O.S.No.183 of 2009 on the file of the District Munsif Court, Thanjavur, is the revision petitioner herein.

2.The revision petitioner, as plaintiff, filed the suit in O.S.No.183 of 2009 before the District Munsif Court, Thanjavur, for specific performance of an agreement of sale, alleged to have been executed by one, Mr.S.Raman, on 12.01.1998. It is stated that the said Raman, died on 13.03.1998 leaving behind the defendants, who have been arrayed as defendants 1 to 3 in the suit. The suit was contested by the defendants, namely, the legal heirs of said S.Raman on the ground that the agreement is a forged document, as the said S.Raman had never executed the sale agreement.

3.During the pendency of the suit, the plaintiff filed an application to prove the genuineness of the sale agreement by getting expert opinion by comparing the signature of the said



S.Raman found in the suit agreement with other documents, containing his admitted signature. It is also admitted that the expert report is against the plaintiff, as the expert has opined that the signature found in the sale agreement in Ex-A1 is not the signature of the said S.Raman, found in other documents. It is admitted that the plaintiff has already examined one of the attestors of the sale agreement and the son of another attestor, who is not alive.

4.Nearly after 14 years from the date of suit, the plaintiff filed an application in I.A.No.83 of 2012 in O.S.No.183 of 2009, to reopen the case for the purpose of examining the son of scribe of the alleged sale agreement, dated 12.01.1998 in order to prove the execution of the said document. This application was dismissed by the trial Court, by holding that the plaintiff has filed applications one after another, at every stage and the suit was posted for arguments. It is also found that the attestor, who was examined by the revision petitioner, has deposed against the revision petitioner. It is further found that after examination of few witnesses, including the son of another attestor, the application is filed belatedly to reopen the case for the purpose of examining the scribe's son. Aggrieved by the order of lower Court dismissing the application, the present civil revision petition is filed.

5.The application filed by the revision petitioner was to reopen the case for examining the son of scribe to prove the existence and execution of sale agreement. The existence of document, which was marked as Ex-A1 is a fact. However, the dispute is only with regard to the signature of the said S.Raman, found in the document. A scribe of a document can speak about the contents of the document. If he is alive, he can, of course, speak to the execution of the document by the said S.Raman. It is unfortunate that the scribe is no more and the petitioner can at best examine his son to prove the signature of the scribe found in the document. His evidence at best can establish the fact that the document was written by his father. He could not depose that the signature of S.Raman found in Ex-A1 is that of him. The proposed witness is not competent to speak about the contention of plaintiff that the document Ex-A1 contains the signature of S.Raman.

6.This Court find that the examination of scribe's son is unnecessary, as it is not going to improve the case of the plaintiff further. The trial Court also found that the plaintiff has filed enough applications one after another. Hence, this Civil Revision Petition is dismissed and the order in I.A.No.83 of 2012 in O.S.No.183 of 2009, dated 28.02.2012 passed by the learned District Munsif, Thanjavur, is confirmed.



7.The suit is of the year 1998. The present application to reopen the case was filed in the year 2012, nearly after 14 years. 7 years have already gone because of the pendency of this petition. In the above circumstances, this Court direct the learned District Munsif, Thanjavur, to expedite the trial and dispose of the suit in O.S.No.183 of 2004 within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

The District Munsif, Thanjavur.

+1 CC to M/s.G.KARNAN, Advocate (SR-78384[F] dated 30/07/2019)

C.R.P. (MD) (PD)No.1103 of 2012
29.07.2019

cmr

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