



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.04.2019

CORAM:

WEB COPY

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

C.R.P. (MD) (NPD) .Nos.1729 & 1750 of 2017
in
C.M.P (MD) .Nos.9418 & 9450 of 2017

- 1.R.Rajaraman : First Petitioner in both the petitions
2.Banumathi : Second Petitioner in C.R.P.No.1729 of 2017
3.Visalachi : Second Petitioner in C.R.P.No.1750 of 2017

Vs.

1.Vishvanathan

2.The Sub Registrar
Sub Registrar Office
Nachiyar Koil
Kumbakonam Taluk
Thanjavur District

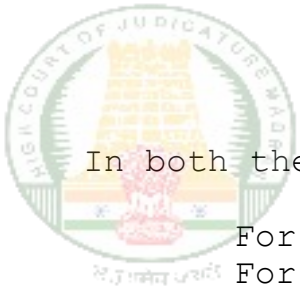
3.The District Registrar
District Registrar Office
Kumbakonam 612 001

4.The Secretary to Tamil Nadu Government
The Registration Department
Secretariat Buildings, St.George Fort
Chennai

5.The Tamil Nadu Government
Represented by the District Collector
Thanjavur District

: Respondents in both the petitions

COMMON PRAYER:These Civil Revision Petitions have been filed under Article 227 of the Constitution of India against the order and decree passed dated 05.03.2016 made in I.A.Nos.262 and 261 of 2014 in O.S.No.268 and 267 of 2012 respectively, on the file of the I Additional District Munsif, Kumbakonam.



In both the petitions:

For Petitioners : Mr.G.Gomathi Sankar
For R1 : Mr.B.Jameel Arasu
For R2 to R4 :Mr.M.Murugan
For R5 :Mr.J.Gunaseelan Muthiah

COMMON ORDER

These Civil Revision Petitions have been preferred against order and decree passed dated 05.03.2016 made in I.A.Nos.262 and 261 of 2014 in O.S.Nos.268 and 267 of 2012 respectively, on the file of the I Additional District Munsif, Kumbakonam.

2.I.A.Nos.262 & 261 of 2014 have been filed by the first respondent herein/petitioner. In the said I.As., he contended that he has filed a suit for cancellation of the sale deed and also for injunction and other reliefs. The learned counsel for the first respondent herein/petitioner contended that the first petitioner herein/first defendant in the suit is the relative to the first respondent/plaintiff and therefore only for the maintenance of the property, the general power was given without any power of alienation in the year 1996. But at that time of giving power deed he has signed in some of the sale deeds and he has authorized the power agent only to admit those documents for the purpose of registration and he has not given any power to the first petitioner/first defendant to admit any document said to have been executed after his power deed in favour of the first petitioner/first defendant.

3.During the month of June 2011, the first respondent/petitioner came to the relative house and he came to know that the first petitioner/first defendant has created a bogus sale deed in favour of the second petitioner herein/second defendant and immediately through my another relative, he has also obtained xerox copy of the said document from the second petitioner/second defendant and he was shocked to note that his signature in the sale deed was forged. Hence, the first respondent/petitioner filed the petitions in I.A.Nos.262 and 261 of 2014 to compare his signature with the bogus sale deed which was executed by the first petitioner herein/first defendant and to compare the same, he has filed the registration copy of the sale deed dated 22.05.1997 for verification and comparison. Further the first respondent/petitioner contended that he has not admitted his signature found in the sale deed dated 23.09.1997 and he sought for comparing the said signature with the available documents which are executed by him prior to the said document. Hence, the first respondent/petitioner seeking to appoint a handwriting expert regarding the comparison of the signature of the first respondent herein/petitioner found in exhibit A2 with the available document and admitted signature of the first



respondent/petitioner found in Ex.A1 and other registered documents, vakalath, affidavit and also the disputed signature found in original registered document dated 23.09.1997 submitted by the defendant.

4.The petitioners herein/respondents have filed a counter statement by stating that the Court itself can compare the said signature and expert opinion by appointment of Commissioner to take the said documents are only for the purpose of harassing the respondents and hence, the said petition is liable to be dismissed.

5.The trial court has observed the contention raised by both counsel and has given a finding that when the first respondent/petitioner makes claim that he has not executed any document on 23.09.1997 and he is very much denied the signature found in the said document and the relief is to cancel the said sale deed, it is for the first respondent/petitioner to prove his case and hence, the contentions raised by the first respondent herein/petitioner for comparing his signature along with the document that he has filed was very much allowed by the trial Court. Aggrieved against the said order, the petitioners herein/defendants have preferred these Civil Revision Petition.

6.In the grounds of revisions, the learned counsel for the petitioners has stated that the Court below failed to see that the first respondent herein/petitioner seeks to compare his signature on the documents in exhibit A1 with vakalath and affidavit copy cannot be compared. The Court below failed to see that the power deed given by the first respondent/petitioner in favour of the first petitioner/first defendant in the year 1996 and the document was registered in 1997 itself and also the signature of the power deed was admitted by the first respondent/petitioner and received amount, now the first respondent/petitioner filed the suit for cancellation of the sale deed dated 23.09.1997 is barred by law and it is only cheating the petitioners herein. The learned counsel for the petitioners further stated that the Civil Court has to order the comparison only with the relevant document of the said period and not by comparing the signature in the vakalath and the written statement. In support of his contention, he has quoted the case law of this Court reported in 2010-1-L.W.646 (*S.Chinnathai Vs.K.C.Chinnadurai*).

7.The only objection raised by the petitioners/respondents in these Civil Revision Petitions is that the Court below cannot pass an order to compare the signature found in document-Exhibit A1 with vakalath and affidavit copy, since the document was executed in the year 1996 and the same was registered in the year 1997. It is seen that the first respondent who is the plaintiff has also conceded that he has given one power deed dated 03.10.1996 to the 1st petitioner/1st defendant on the relevant period of the disputed document and another disputed document dated 26.04.2010 which was also a sale deed executed by the first respondent herein/petitioner. The signature found in the said documents are also disputed by the



first respondent herein/petitioner and the same are also to be compared along with the documents which are now mentioned by the first respondent/petitioner.

8. In view of the above, the order passed by the trial Court is very much reasonable and this Court does not interfere with the same and therefore, these Civil Revision Petitions are dismissed by confirming the order passed in I.A.Nos. 262 and 261 of 2014 on the file of the I Additional District Munsif, Kumbakonam. No costs. Consequently, the connected miscellaneous petitions are closed. However, it is observed that the proceedings of the case has been stalled, because of the pendency of these Civil Revision Petitions. Since the suit is of the year 2012, the trial Court is directed to proceed with the case within a period of six months from the date of receipt of a copy this order, by taking effective and immediate steps. Both the petitioners and the respondents herein are directed to co-operate with the trial Court for early disposal.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

1. I Additional District Munsif , Kumbakonam.

2. The Section Officer,
V.R. Section,

Madurai Bench of Madras High Court, Madurai. (2 COPIES)

+2cc to Mr.B.JAMEEL ARASU, Advocate, SR.No.59469

+1cc to Mr.G.GOMATHI SANKAR, Advocate, SR.No. 59350

+1cc to M/s.Special Government Pleader, SR.No. 59720, 59653

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MSA

KK/SAR/30.04.2019/ 4P- 8C