



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.11.2020

CORAM

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

C.R.P. (MD)Nos.927 and 928 of 2020

and

C.M.P. (MD)No.6044 of 2020

In both petitions:

1.E.R.Sellammal
2.Dinesh Roobak

... Petitioner/Defendants

-Vs-

C.Rajasekaran

..Respondent/Plaintiff

COMMON PRAYER: Civil Revision Petitions are filed under Article 227 of the Constitution of India, against the order passed by the learned Sub Judge, Lalgudi in I.A.Nos.2 and 3 of 2019 in O.S.No.264 of 2018, dated 12.02.2020.

In both petitions:

For Petitioner : Mr.J.Madhu

C O M M O N O R D E R

These Revision Petitions are filed by the defendant in O.S.No.264 of 2018, challenging the order of the trial Court passed in I.A.Nos.2 and 3 of 2019 directing reopening the case and appointing a Commission for expert opinion to file a report on the genuineness of the signature of the plaintiff in the sale agreement.

2.The plaintiff has laid a suit for specific performance based on a sale agreement dated 11.10.2012 alleged to have been executed by the respondent/defendant. In his written statement, the defendant has pleaded that the signature in the sale agreement is forged. The trial of the case was completed and the matter was posted for final arguments, when the plaintiff came up with an application for reopening the case and another for appointing an expert for comparing the signature of the defendant in the sale agreement with his admitted signature. As the defendant has taken strong objections to it on the ground that the plaintiff ought to have taken it before trial, and that the Court itself has power to compare the signature under Section 73 of the Indian Evidence Act. After considering the rival submissions, the trial Court allowed these applications.



3. Heard the learned counsel appearing on either side. It was argued by the respondent that when once the written statement is filed alleging that the signature in the sale agreement is forged, the duty of the plaintiff commences forthwith. He also added that the defendants are put in much inconvenience due to considerable delay in the disposal of the case.

4. While it cannot be denied that the revision petitioners/defendants are put to some degree of inconvenience, yet to get the best evidence, the trial Court has ample discretion to appoint a Commission at any stage.

5. This Court does not find any apparent illegality or impropriety in the orders of the trial Court. Having stated thus, since the trial of the case is substantially completed, the trial Court is now required to expedite the process of obtaining expert opinion at the very earliest and dispose of the matter within a period of six weeks thereafter. The forensic expert may also be informed to make available his opinion at the very earliest.

6. In fine, these Civil Revision Petitions are dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

Cm/ta

To

The Sub Judge,
Lalgudi.

C.R.P. (MD) Nos. 927 and 928 of 2020

and

C.M.P. (MD) No. 6044 of 2020

30.11.2020

AC (CO)

KM (17.12.2020) 2P 2C