

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2021

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRP.PD.No.1882 of 2015 and
MP.No.1 of 2015

Thirupurasundari

..Petitioner

Vs.

1.Saradambal(died)

2.S.Vedhanayaki

3.S.Vasanthi

..Respondents

(RR2 and 3 impleaded as
the legal representatives of the first respondent
vide court order dated 22.01.2021 in
CMP.No.13144 of 2020 in CRP.PD.No.
1882 of 2015)

PRAYER:

The Civil Revision Petition is filed under Article 227 of the
Constitution of India against the fair and decreetal order dated
05.03.2015 passed in IA.No.1125 of 2014 in OS.No.226 of 2008 on
the file of the Additional District Munsif, Alandur.

For Petitioner : M/s.Paul and Paul

For Respondents

For R1 : died

R2 to R3 : no appearance

ORDER

The Civil Revision Petition is arising out of fair and decreetal order passed in IA.No.1125 of 2014 in OS.No.226 of 2008 on the file of the Additional District Munsif, Alandur dated 05.03.2015 thereby dismissing the petition filed by the petitioner to appoint Advocate Commissioner to furnish Ex.A2 along with other documents carrying the admitted signatures of the defendant for getting expert opinion from the handwriting expert.

2. The petitioner is the plaintiff, she filed suit as against the respondent for specific performance on the strength of the sale agreement dated 19.12.2000. Immediately, the respondent filed written statement and categorically pleaded as follows:

"10.This defendant states that the plaintiff's husband and the plaintiff had misused the trust imposed on them by this defendant and took advantage of the helplessness and the situation this defendant has been placed, has created forged and fabricated documents alleged to be the Sale Agreement dated 19.12.2000.

11.This Defendant states that she never executed any document much less the alleged false document dated 19.12.2000.

12. This defendant states that the plaintiff's husband and the plaintiff had created the said document

and forged this defendant signature in the said document. The fact this defendant came to know when the plaintiff served documents on this defendant. The said signature on the alleged agreement dated 19.12.2000 is not the signature of this defendant.

15. This defendant states that she came to know the alleged fabricated documents after receiving the documents from the Court. The plaintiff's and her husband had changed the Electricity Card and the records in the municipality without any valid documents and that itself proves the plaintiff's and her husband's malafide intentions.

16. This defendant states that the plaintiff and her husband created the alleged fabricated sale agreement dated 19.12.2000 by forging the defendant's signature and changed the E.B. records as well as the records in the Municipality without the knowledge of this defendant with the said fabricated document and the said fact the plaintiff or her husband did not disclose the same in reply to this defendant's advocate notice."

3. Thereafter the trial was commenced and the petitioner completed her evidence and the defendant was also examined as DW1. After examining DW1, the petitioner filed petition that after period of six years from the date of filing the written statement to send for sale agreement which was marked as Ex.A2 for handwriting

expert opinion to compare with admitted signature of the respondent herein. When the respondent filed written statement in the month of April 2008 itself denying her signature in the alleged agreement for sale dated 19.12.2000 and also categorically stated that the petitioner had misused the trust imposed on them by the respondent and took advantage of the helplessness, they created forged and fabricated document alleged to be sale agreement dated 19.12.2000. She also denied her signature in the alleged agreement dated 19.12.2000. Therefore, after cross examination of DW1, the petition has been filed only to fill up the lacuna and nothing else and it amounts to clear abuse of process of law. As such the trial court rightly dismissed the petition and this Court finds no irregularity or infirmity in the order passed by the court below.

4. Accordingly, this civil revision petition is dismissed. Consequently, connected miscellaneous petition is closed. No order as to costs.

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22.01.2021

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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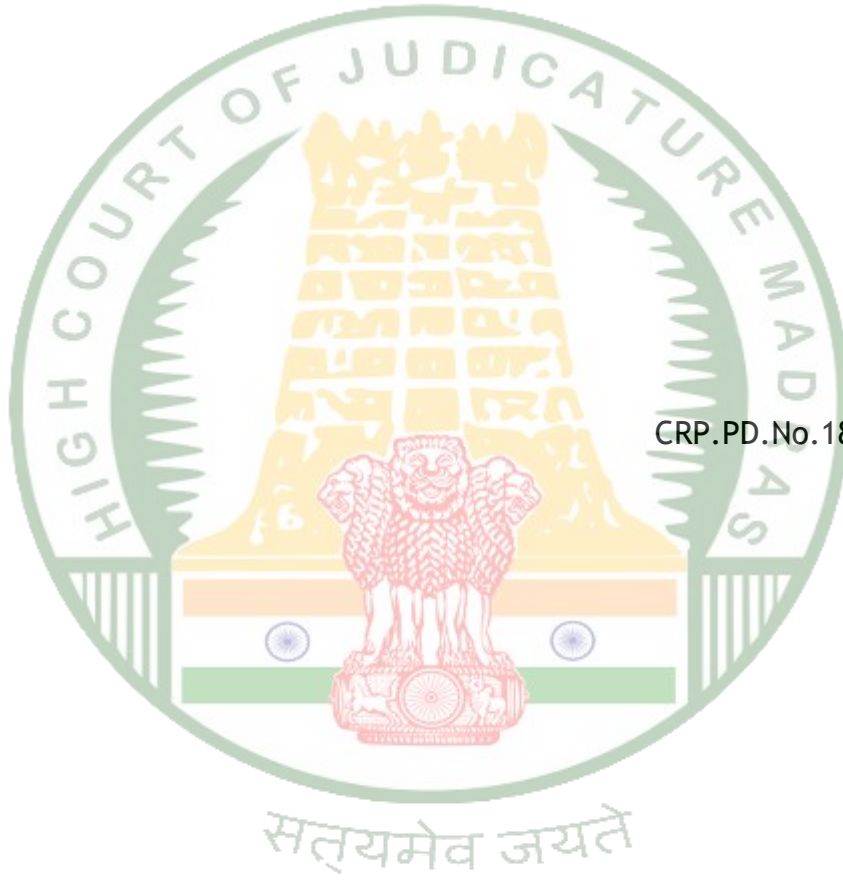
The Additional District Munsif, Alandur.



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G.K.ILANTHIRAIYAN,J.

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