

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2021

CORAM

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

**C.R.P.(PD) No. 1605 of 2018
and CMP No.8732 of 2018**

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Petitioner

Vs

Thirumalaisamy Gounder (Died)

1.Balamani

2.P.Chandrasekaran

...

Respondents

Prayer :- Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 07.10.2017 made in I.A.No.430 of 2016 in O.S.No.190 of 2011 on the file of the Subordinate Judge, Pollachi.

For Petitioner : Mr.Bharath Gowtham

For Respondent : Mr.R.Kannan

ORDER

This Civil Revision Petition is filed against the fair and decreetal order dated 07.10.2017 made in I.A.No.430 of 2016 in O.S.No.190 of 2011 on the file of the Subordinate Judge, Pollachi, thereby dismissing the petition to send the document for expert opinion.

2. The petitioner is the plaintiff and the respondents are the defendants. The petitioner filed a suit for declaration, declaring that the agreement for sale executed by her father i.e., the first defendant in the present suit, in favour of the third defendant in the present suit, dated 21.01.2008 as null and void and also prayed for permanent injunction restraining the respondents from alienating the suit property. While pending suit, the petitioner filed a petition to send for the alleged agreement for sale dated 21.01.2008 to compare the signature with the admitted signature.

3. The learned counsel for the petitioner would submit that her father i.e., the first defendant herein, alleged to have executed the agreement for sale dated 21.01.2008 in favour of the third defendant/second respondent herein. On the strength of the agreement for sale dated 21.01.2008, the second respondent herein filed a suit in O.S.No.60 of 2008 before the Sub Court, Pollachi. Her father filed a petition in the very same suit to compare the signature found in the agreement for sale dated 21.01.2018 with the admitted signature and the same was dismissed before the Trial Court. Aggrieved by the same, he preferred a Civil Revision Petition in CRP.PD.No.3924 of 2010 and the

same was dismissed by an order dated 03.01.2011, for the reason that her father failed to prove the admitted signature. However, he was at liberty to file an application to produce some documents wherein the admitted signatures are there. Further, her father submitted to the decree in the suit filed by the second respondent herein in O.S.No.60 of 2008 and the same was decreed by Judgment and Decree dated 17.11.2011.

4. Pursuant to the said decree, the second respondent herein also filed an execution petition in E.P.No.25 of 2012 for execution of agreement for sale and it is pending. While pending the Execution Petition, the petitioner herein filed the present suit challenging the said agreement for sale which was executed by her father on 21.01.2008. While pending the suit, she also filed a petition to compare the signature of her father with the admitted signature. When her father himself admitted in the case filed by the second respondent herein and submitted to the decree, the petitioner cannot challenge the agreement for sale and also cannot dispute the signature of her father.

5. Therefore, this Court finds no infirmity and illegality in the order passed by the Court below. Accordingly, the Civil Revision

Petition is dismissed. No order as to costs. Consequently, connected Miscellaneous Petition is closed.

24.06.2021

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Index: Yes/No
Internet: Yes/No
Speaking Order: Yes/No

To
The Sub Judge,
Pollachi.

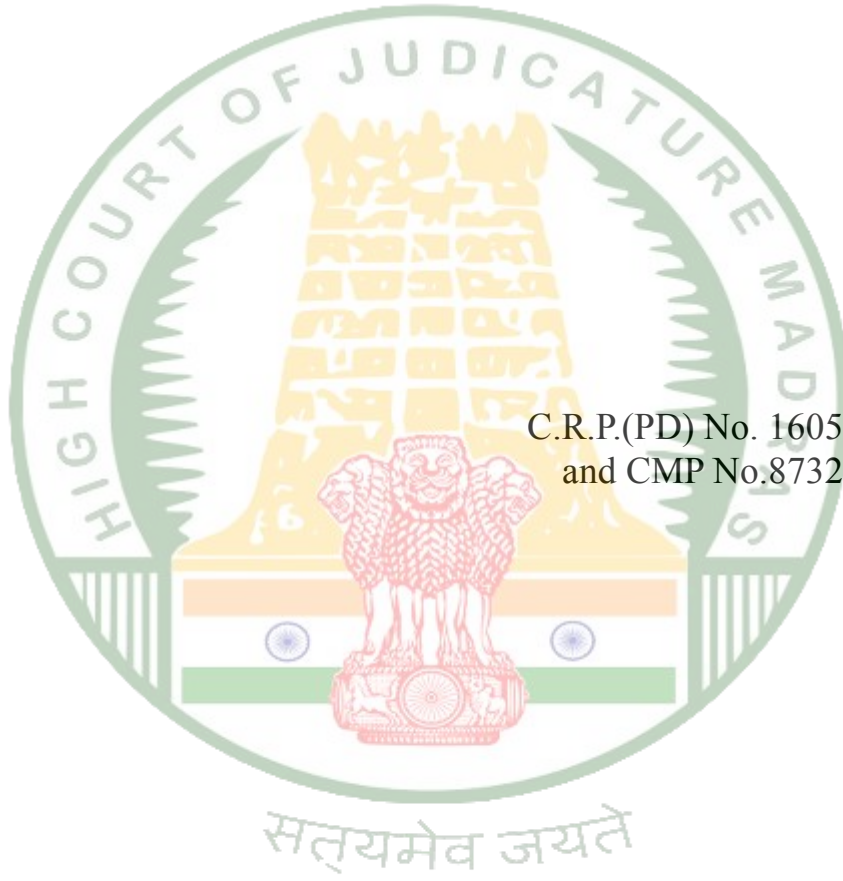


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