

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.02.2021

CORAM

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

CRP.PD.No.1086 of 2015 and
MP.No.1 of 2015

Ramesh Babu

..Petitioner

Vs.

1.H.Parthiban(died)

2.Rathi

3.Premkumar

4.Chandraleka

5.Haripriya

(RR2 to 5 brought on record of LR's of the
deceased 1st respondent vide order dated
09.02.2021 in CMP.No.2101 of 2021 in
CRP.No.1086 of 2015

..Respondents

PRAYER:

The Civil Revision Petition is filed under Article 227 of
Constitution of India against the order and decretal order of dismissal
dated 12.08.2014 made in IA.No.343 of 2013 in OS.No.137 of 2007
on the file of the Sub Judge, Tiruvallur.

For Petitioner : Mr.R.Karunagaran

For Respondents

R1 : died (steps taken)

For R2,3 & 5 : Mr.V.Raghavachari

R4 : died

ORDER

The civil revision petition is arising out of order and decreetal order dated 12.08.2014 made in IA.No.343 of 2013 in OS.No.137 of 2007 on the file of the Sub Judge, Tiruvallur dismissing the petition filed to send document for comparison.

2. The petitioner is the second defendant in the suit filed by the respondents herein for specific performance on the strength of the registered agreement for sale dated 06.05.2002.

3. On perusal of agreement for sale dated 06.05.2002, the first respondent's father entered into an agreement for sale to purchase the suit property admeasuring 5157 sq.ft. for the sale consideration of Rs.2,10,000/-, in which Rs.20,000/- was paid as advance. The remaining sale consideration to be paid within a period of three months, namely on or before 06.08.2002 and on receipt of the same, the first defendant in the suit has to execute the sale deed. According to the respondents, on 24.07.2002 the first defendant in the suit received entire balance sale consideration, namely Rs.1,90,000/- and he is ready and willing to

execute the sale deed in favour of the respondents or his any of his agent or legal heirs. He also handed over the possession and enjoyment of the suit property to the respondent's father. After five years of the agreement for sale dated 06.05.2002, the petitioner purchased the suit property by the registered sale deed dated 14.05.2007. Therefore, he was also impleaded as second defendant in the main suit. While pending the said suit, the first defendant who is the original owner of the property died. On his instruction, the petitioner herein filed petition seeking send for agreement for sale dated 06.05.2002 to compare the signatures by the handwriting expert and for his report. The court below dismissed the said petition on the ground that the petition is not clear with regards to disputing the signature found in page 1 to 3 and signature found in the fourth page of the agreement for sale. Further the petitioner failed to produce any supporting document i.e. the admitted signature of the first defendant to compare with the disputed signature.

4. The learned counsel for the petitioner clarified that the agreement for sale is registered one on 06.05.2002 as document No.791 of 2002 with the Office of the Sub Registrar Arani. According to the

respondent's father, namely plaintiff in the suit, on 24.07.2002, he received balance sale consideration and he was ready and willing to execute sale deed at any time. Therefore, it was fabricated one by the respondent's father and filed suit. He also denied the signature of the first defendant, namely Senadhipathi in the agreement for sale. As such, the agreement for sale has to be sent for handwriting expert opinion to compare the signature found in the page 1 to 3 with the signature found in the fourth page of the forged agreement for sale.

5. Admittedly, the agreement for sale dated 06.05.2002 was registered one as document No.791 of 2002 in the Sub Registrar Office, Arani. According to the plaintiff, namely the respondent's father, the first defendant received balance sale consideration of Rs.1,90,000/- on 24.07.2002 and he was ready and willing to execute sale deed in favour of respondent's father or any other agent. After period of five years from the date of agreement for sale dated 06.05.2002, the petitioner purchased the suit property for valid sale consideration by the registered sale deed dated 14.05.2007. Therefore, he disputed fourth page of the agreement for sale as fabricated one and forged the signature of the first defendant by the plaintiff.

6. Considering the above, this civil revision petition is allowed and the order dated 12.08.2014 passed in IA.No.343 of 2013 in OS.No.137 of 2007 on the file of the Sub Judge, Tiruvallur is set aside. The court below is directed to send for agreement for sale dated 06.05.2002 to compare the signatures found in the page No.1 to 3 of the agreement for sale with the signature found in the page No.4 and get handwriting expert opinion. Consequently, connected miscellaneous petition is closed. No order as to costs.

09.02.2021

Speaking/Non-speaking order
Index : Yes/No
Internet : Yes/No
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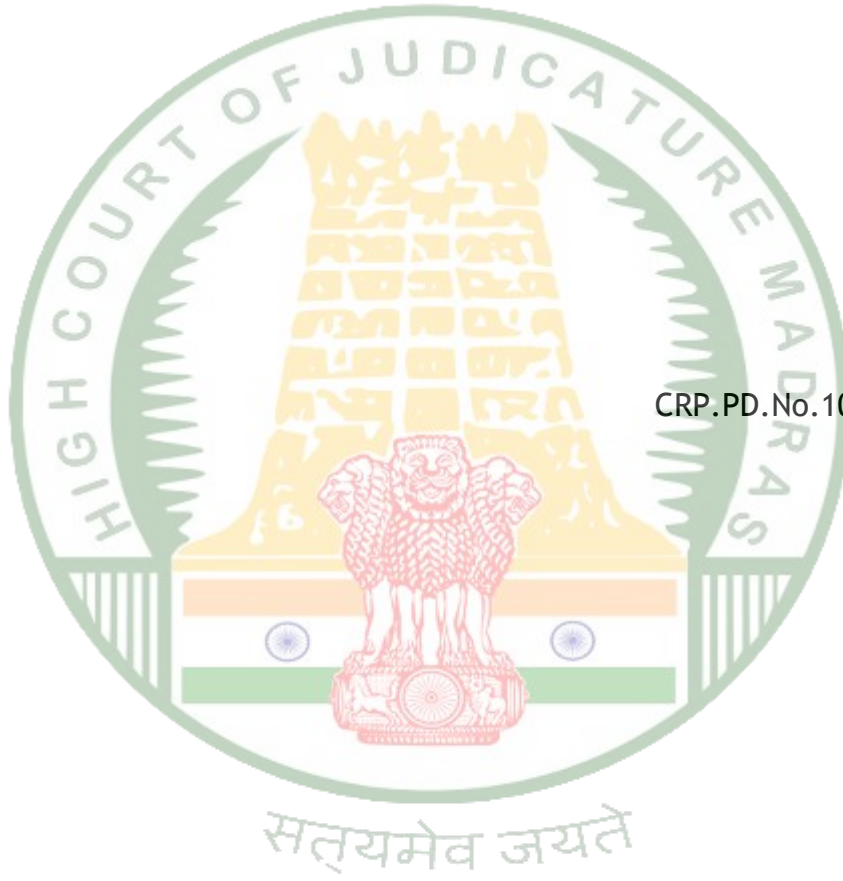
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G.K.ILANTHIRAIYAN,J.

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To

The Sub Judge,
Tiruvallur.



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