



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.11.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD).No.3742 of 2016

and

C.M.P.No.19057 of 2016

S.Maheswari

.. Petitioner

Vs.

1.S.Saravanakumar

2.M.Subbaiyan

.. Respondents

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decretal order dated 24.09.2016 made in I.A.No.59 of 2016 in O.S.No.239 of 2013 on the file of the II Additional District & Sessions Court, Tiruppur.

For Petitioner : Mr.R.Suresh Kumar
for M/s. L.M.Vijayan Associates

For R1 : Ms.Raja Shama Gayathiri
for Mr.K.Govi Ganesan

For R2 : Not ready in notice



ORDER

(The matter is heard through “Video Conferencing/Hybrid Mode”).

WEB COPY

This Civil Revision Petition is filed against the fair and decretal order dated 24.09.2016 made in I.A.No.59 of 2016 in O.S.No.239 of 2013 on the file of the II Additional District & Sessions Court, Tiruppur.

2.The petitioner is 2nd plaintiff in O.S.No.239 of 2013. The petitioner along with 2nd respondent filed suit in O.S.No.239 of 2013 against the 1st respondent / defendant for partition and declaration. The 2nd respondent is father of petitioner and 1st respondent. The 1st respondent filed written statement and is contesting the suit. After completion of evidence on behalf of both the parties, when the suit was posted for arguments, the 2nd respondent and petitioner filed application in I.A.No.59 of 2016 under Section 45 of Indian Evidence Act and Section 151 of C.P.C. to refer the Original Non Judicial Stamp Papers sales Register (முத்திரைத்தாள் விற்பனைப் பதிவேடு) of the Document Vendor Mr.Muthukumar, (License No.34/2000, Karanampettai, Kodangipalayam, Palladam) which contains the sale transaction on 24.10.2011 of the “Non Judicial Stamp Paper” valued Rs.10,000/- vide its S.No. A 313411 in the name of Mr.Subbaiyan,



Samigoundampalayam and the Original Release Deed No.20493/2011, dated 24.10.2011 which was produced as Plaint Document No.3 in the Suit O.S.No.158/2013, pending on the file of the District Munsif Court, Palladam to The Director, Forensic Service Department, Forensic House, 30-A, Kamarajar Salai, Mylapore, Chennai for investigation, comparison and to establish the alleged signature of the 2nd respondent is forged.

3. According to the petitioner and 2nd respondent, the 1st respondent requested them to execute the security document so as to enable him to obtain loan from the Bank. Believing his representation, the petitioner and 2nd respondent executed the document and registered the document on 24.10.2011 on the file of the Sub Registrar's Office at Palladam. Subsequently, they came to know that on misrepresentation by the 1st respondent and fraud committed by him, he got the release deed in his favour. The Non Judicial Stamp paper for Rs.10,000/- was alleged to have been produced by the 2nd respondent. The 2nd respondent signs only in English and in Sale Register of Stamp Paper, the signature of the 2nd respondent is in Tamil, which is forged one. On these averments, the petitioner and 2nd respondent filed the present I.A.



4.The 1st respondent filed counter affidavit and opposed the said application.

5.The learned Judge considering the averments in the affidavit and counter affidavit, dismissed the application holding that signature in the Sale Register of Stamp Paper is in Tamil whereas, signature in Release Deed is in English and signature in two different languages cannot be compared.

6.Against the said order of dismissal dated 24.09.2016 made in I.A.No.59 of 2016, the petitioner has come out with the present Civil Revision Petition.

7.The learned counsel appearing for the petitioner contended that the 2nd respondent colluding with 1st respondent, changed his counsel and engaged a different counsel. The petitioner filed a memo before the Trial Court. The learned Judge without considering the memo, dismissed the application. The learned counsel appearing for the petitioner reiterated the averments in the affidavit filed in support of the application and prayed for setting aside the order of the learned Judge.



WEB COPY

8.The learned counsel appearing for the 1st respondent made her submissions in support of the order of the learned Judge and prayed for dismissal of the Civil Revision Petition.

9.Heard the learned counsel appearing for the petitioner as well as the learned counsel appearing for the 1st respondent and perused the entire materials on record.

10.From the materials on record, it is seen that the 2nd respondent and petitioner filed application in I.A.No.59 of 2016 under Section 45 of Indian Evidence Act and Section 151 of C.P.C. to refer the disputed signature in the Sale Register of Stamp Paper and signature in the Release Deed. Admittedly, the signature in the Sale Register is in Tamil and the signature in Release Deed is in English. When the disputed signature and admitted signature are in two different languages, it is not possible for the expert to give opinion with regard to disputed signature. For comparison of both the disputed signature and admitted signature, both the signatures must be in the same language. In the present case, the disputed signature and admitted signature are in two



WEB COPY

different languages. The learned Judge appreciating the above facts properly, dismissed I.A.No.59 of 2016 by giving cogent and valid reason. There is no error or irregularity in the order of the learned Judge warranting interference by this Court.

11.For the above reasons, this Civil Revision Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

26.11.2021

krk

Index : Yes / No
Internet : Yes / No

To

The learned II Additional District & Sessions Judge,
Tiruppur.



WEB COPY



C.R.P. (PD) .No.3742 of 2016

V.M.VELUMANI, J.
krk

C.R.P.(PD).No.3742 of 2016

26.11.2021