

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2021

CORAM:

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

**C.R.P (PD) No.2886 of 2018
and
C.M.P.No.16933 of 2018**

Mohan

... Petitioner

Vs.

Ramamurthy

... Respondent

Prayer : Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the order and decretal order dated 18.07.2018 passed in I.A.No.12 of 2018 in O.S.No.11 of 2017, on the file of I Additional District Judge, Tindivanam and allow the above Civil Revision Petition.

For Petitioner : Mr.V.V.Sairam

For Respondent : Mr.N.Anbazhagan

ORDER

This Civil Revision Petition is directed against the fair and decretal order passed in I.A.No.12 of 2018 in O.S.No.11 of 2017 dated 18.07.2018 on the file of the I Additional District Judge, Tindivanam, thereby dismissing the petition seeking hand writing expert's opinion.

2. The petitioner is the defendant and the respondent is the plaintiff. The respondent filed a suit for specific performance, on the strength of the registered agreement for sale dated 19.05.2011. According to the respondent, the petitioner intended to alienate the suit property for the total sale consideration for Rs.11 lakhs. Accordingly, on 19.05.2011, they entered into an agreement for sale and on the same day, the petitioner received a sum of Rs.10 lakhs in advance. Again, on 19.05.2013, the petitioner received a sum of Rs.70,000/- out of balance sale consideration of Rs.1 lakh and he made an endorsement of payment in the sale agreement dated 19.05.2011. According to the plaintiff, out of total sale consideration of Rs.11 lakhs a sum of Rs.10,70,000/- was paid by the respondent to the petitioner. Again on 24.12.2015, the petitioner received a sum of Rs.20,000/- out of balance sale consideration of Rs.30,000/- and he made an endorsement in the sale agreement dated 19.05.2011.

3. At that juncture, the petitioner come forward with the petition to send the agreement for sale to the hand writing expert's opinion, disputing the very agreement for sale and also subsequent endorsement

made by the petitioner on 19.05.2013 and 24.12.2015. It is also averred that only to save the limitation, the subsequent endorsements were made by the respondent.

4. The Court below dismissed the said application for the reason that the agreement for sale dated 19.05.2011 was looked into and found that the signature made in 19.05.2011, 19.05.2013 and 24.12.2015 are similar in nature. As contemplated under Section 73 of the Indian Evidence Act, the Court can compare the signature, writing or seal with the admitted or proved signature. The petitioner admitted the signature found in the agreement for sale dated 19.05.2011 and disputed the subsequent endorsements made on 19.05.2013 and 24.12.2015. The Court below found all the signatures made in the agreement for sale dated 19.05.2011 and two endorsements dated 19.05.2013 and 24.12.2015 are similar in nature. Therefore, the present petition has been filed only to put up the proceedings as hold and nothing else. Therefore, the Court below rightly dismissed the petition and this Court finds no infirmity or illegality in the order passed by the Court below.

5. Accordingly, this Civil Revision Petition is dismissed. However, the petitioner is permitted to let in evidence in this regard. Consequently, the connected Miscellaneous Petition is closed. No costs.

14.06.2021

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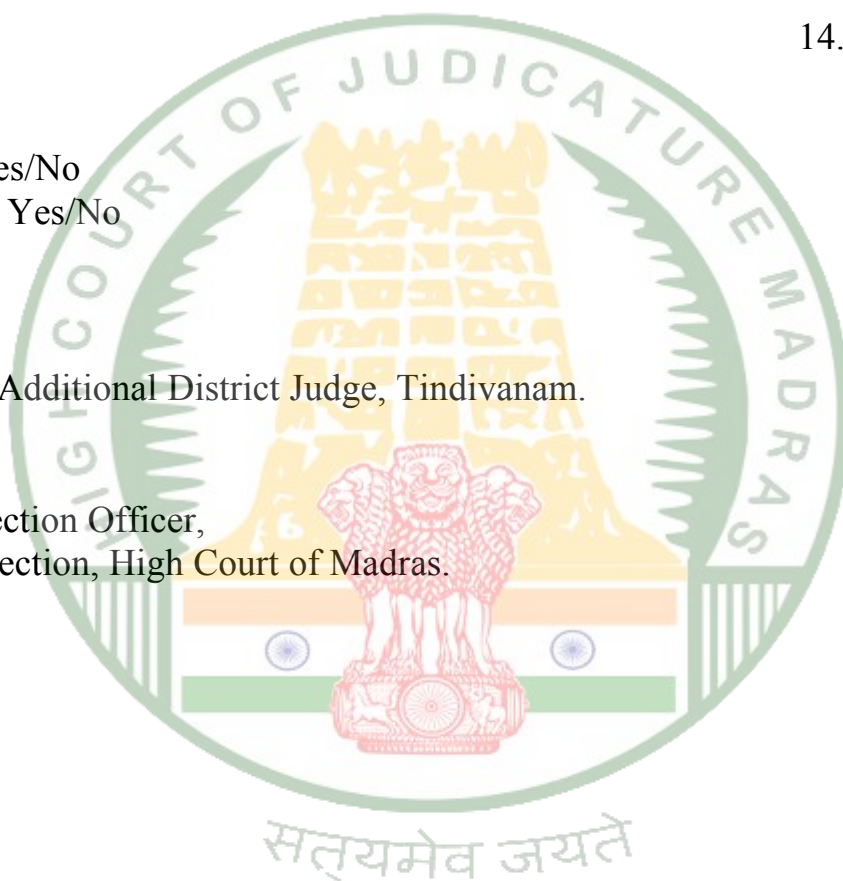
Index :Yes/No

Internet : Yes/No

To

1. The I Additional District Judge, Tindivanam.

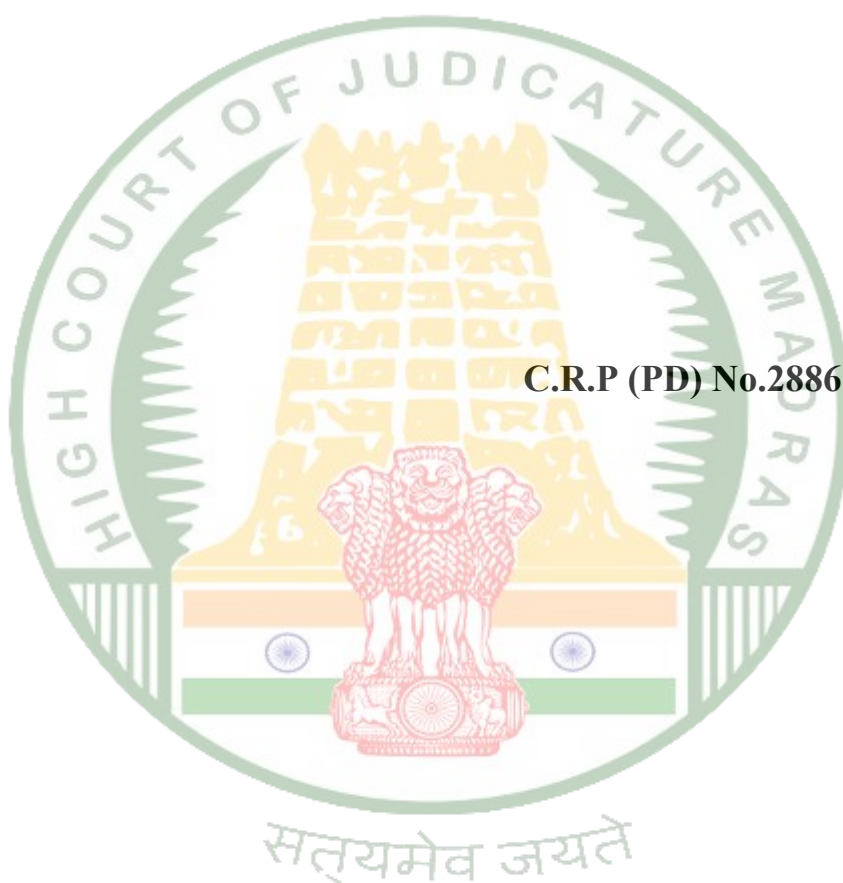
2. The Section Officer,
V.R. Section, High Court of Madras.



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G.K.ILANTHIRAIYANJ.,

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