

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

C.R.P. (PD) No.2119 of 2021
and C.M.P. No.16112 of 2021

P.Eswari

...

Petitioner /
Defendant

versus

Sakthivel

...

Respondent /
Plaintiff

PRAYER: Civil Revision Petition has been filed under Article 227 of Constitution of India, against the fair and decreetal Order dated 03.12.2020 made in I.A.No.94 of 2014 in O.S.No.311 of 2013 on the file of the learned III Additional District and Sessions Judge, Tiruppur at Dharapuram.

For Petitioner : Mr.N.Ponraj

ORDER

This Civil Revision Petition is filed, challenging the order dated 03.12.2020 passed by the learned III Additional District and Sessions Judge, Tiruppur, Dharapuram in I.A.No.94 of 2014 in O.S.No.311 of 2013.

2. The learned counsel for the petitioner submitted that, the respondent filed the suit in O.S.No.311 of 2013 for the relief of specific performance for executing the Sale deed in favour of the respondent on the basis of the Sale agreement dated 30.03.2012.

3. The case of the petitioner is that, the petitioner has not executed this Sale Agreement and the signature in the Sale Agreement, is created by using the blank signed papers given by the petitioner at the time of borrowal by her husband. The Sale Agreement is created for the purpose of this case. Therefore, the Sale Agreement has to be sent to the Handwriting Expert opinion, for comparing with her admitted signatures. However, this petition came to be dismissed by the learned III Additional District and Sessions Judge. Against the said dismissal order, this Civil Revision Petition, is preferred.

4. The learned counsel for the petitioner submitted that, it has been specifically denied in the written statement that, the Sale Agreement has been forged with the help of signed blank stamp papers,

concur sheets and promissory notes given by the petitioner to the respondent, when her husband borrowed a sum of Rs.3,50,000/- from Senthilvelan Finance. However, the perusal of the reply notice dated 24.09.2013 sent by the petitioner in response to the notice dated 20.09.2013 sent by the respondent shows that, the petitioner contended that, at the instance of the respondent, petitioner handed over 5 signed blank stamp papers, 5 signed concur papers and 3 signed promissory notes with her signatures. It is the specific case of the petitioner in the reply that, those signed blank stamp papers and other papers, are used for creating the suit Sale Agreement. In reply, there is no specific allegation that, the respondent has created the suit Sale Agreement by forging the signature of the petitioner taking reference from her signatures in the signed blank stamp papers and other documents. It was clearly and categorically stated that the signed blank stamp papers and other papers are used for creating the Sale Agreement. In the written statement, an improvement has been made stating that the Sale Agreement has been created by forging her signature.

5. The reply is the first document after receipt of notice and the contents of reply has more relevance than the averments made in the written statement for the reason that the improvement has been made in the written statement with reference to the case of the alleged forgery. When the case of forgery, is not taken at the first instance, the plea set up after deliberation and after thought, cannot be taken into consideration. So, we have to take it that, the case of the petitioner is that, the signed blank stamp papers and other papers, are used by the respondent for the purpose of creating the Sale Agreement. This aspect has to be proved only by oral and documentary evidence. When the signature in the blank stamp papers and other papers, are admitted by the petitioner in the reply and it is only claimed that, those documents are used for creating the Sale Agreement, in considered view of this Court that, the comparison of the petitioner's signature in the Sale Agreement with the other admitted signatures of the petitioner, is not necessary.

6. In such view of the matter, this Court finds that the learned III Additional District and Sessions Judge, has rightly considered

this aspect and dismissed this petition. This Court finds no reason to interfere with the order of the learned III Additional District and Sessions Judge, Tiruppur, Dharapuram and the order dated 03.12.2020 made in I.A.No.94 of 2014 in O.S.No.311 of 2013, is hereby confirmed.

7. Resultantly, this Civil Revision Petition is dismissed. Consequently, connected Miscellaneous Petition is closed. However, there is no order as to costs.

04.10.2021

Speaking order / Non-speaking order
Index : Yes / No

psa / sri

To

The III Additional District and Sessions Judge,
Tiruppur, Dharapuram.

G.CHANDRASEKHARAN, J.

psa / sri



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