



CRP (PD) Nos.2563 & 2564 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CRP (PD) Nos.2563 & 2564 of 2021

1. K.Ayyam Perumal
2. A.Murugesan

... Petitioners
In both CRPs

Vs

Shanthi

... Respondent
In both CRPs

Common Prayer: These Civil Revision Petitions are filed under Article 227 of the Constitution of India, to set aside the Final and Common Decreeal order passed in I.A.Nos.2 & 3 of 2021 in O.S. No.34 of 2017 dated 24/08/2021 on the file of the Principal District Munsif Court at Bhavani.

For Petitioner
In both CRPs : Mr.P.Chandrasekaran

ORDER

The challenge in these two revisions is to the dismissal of two applications filed by the defendants in O.S.No.34 of 2017 in I.A.Nos.2 and 3 of 2021.



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2. I.A.No.2 of 2021 was filed by the applicants seeking permission to examine other witnesses and thereafter examine themselves under Order XVIII Rule 3A of the Code of Civil Procedure. The application in I.A.No.3 of 2021 was filed to summon the Sub Registrar, Ammapettai to depose about the documents registered therein in respect of the properties in the suit survey field. The reasons set out in the applications filed in support of these applications are that the plaintiff who had filed a suit for declaration that two Sale Deeds executed by the 2nd defendant in the year 2009 and 2015 are invalid and for the consequential relief of partition, while being cross examined, has denied the fact that she has signed as a witness in two documents bearing document Nos.239 and 310 of 2002. Taking advantage of such denial, these applications have been filed to summon the Sub Registrar to give evidence. The trial Court rightly dismissed these applications. I am unable to comprehend the purpose behind these applications. If a person who signed as a witness to a document that too for a registered instrument, denies such signing, it is for him / her to establish the same, in view of the presumption created under Section 60 (2) of the Registration Act. In the light of the



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statutory provisions, the burden is on the plaintiff who has chosen to deny.

Even otherwise the summoning of the Sub Registrar who is now working in Ammapettai to speak about the execution of the document of the year 2002, is wholly unnecessary and it will not serve any purpose. I therefore do not find any irregularity or illegality in the order of the trial Court, dismissing the application. The revisions therefore fail and they are accordingly dismissed. It is made clear that the dismissal of the applications and confirmation of the order of the Trial Court, will not however preclude the defendants from letting in evidence they deem proper. No costs.

26.11.2021

vum

Index: Yes/No

Speaking order / Non speaking order

To:

1. The Principal District Munsif Court,
Bhavani
2. The Section Officer,
VR Section,
Madras High Court, Chennai.

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R.SUBRAMANIAN, J.

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