



C.R.P.(NPD).No.2596 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P.(NPD).No.2596 of 2021

and

C.M.P.No.19236 of 2021

Velmurugan

.. Petitioner

Vs.

K.M.Chandrasekar

.. Respondent

PRAYER: Civil Revision Petition filed under Section 115 of the Code of Civil Procedure, praying to set aside the fair and final order dated 16.09.2021 passed in I.A.No.5 of 20210 in I.A.No.415 of 2013 in A.S.No.76 of 2011 on the file of the III Additional District Judge, Salem and allow the above CRP.

For Petitioner : Mr.R.Nalliyappan



C.R.P.(NPD).No.2596 of 2021

ORDER

WEB COPY

The petitioner challenges the order of the appellate Court dismissing his application in I.A.No.5 of 2021 in A.S.No.76 of 2011.

2. The said appeal has been filed by the petitioner challenging the decree for money granted by the trial Court. Though the petitioner claimed that the suit promissory note is forged and took steps for having it compared with the admitted signatures and the thumb impression, the finger print Expert returned the request with endorsement that the thumb impression in the promissory note is smudged. Regarding the signatures it was stated that the admitted signatures sent are not clear or that they are not sufficient to carryout comparison. Thereafter, the suit came to be decreed by the trial Court.

3. In the appellate Court, the petitioner came up with the application in I.A.No.415 of 2013 producing four documents to compare the admitted signatures with those documents. That application was dismissed by the appellate Court. Thereafter, the petitioner came up with this application



C.R.P.(NPD).No.2596 of 2021

seeking to summon the thumb impression register available in Sub-Registrar Office, Attur relating to partition deed which was registered as Doc.No.580 of 2003. The appellate Court saw it as an attempt to drag on the proceedings, since the petitioner himself is a party to the partition deed, it will be available with him or his family members. Since the petitioner had not whispered anything about the possession of the original partition deed, the appellate Court suspected the *bona fides* of the petitioner and dismissed the application.

4. Mr.R.Nalliyappan, learned counsel appearing for the petitioner would vehemently contend that the original partition deed is with the brother of the petitioner and who is not willing to part with it. In order to prove that the promissory note is forged, he should be given an opportunity by summoning the thumb impression register maintained by the sub-Registrar. It was open to the petitioner to seek the prayer before the trial Court, but the petitioner did not choose to do that. The comparison of thumb impression was not done by the Finger Print Expert as the thumb impression in the promissory note is smudged. As regards comparison of the signatures earlier, the application was rejected by the Court.



C.R.P.(NPD).No.2596 of 2021

WEB COPY

5. Therefore, I do not think that the petitioner's application is *bona fide* and the appellate Court was justified in dismissing the same. Accordingly, this Civil Revision Petition is **dismissed**. The appellate Court has also pointed out that there is a direction by this Court in CRP.No. 892 of 2015 directing the appeal to be disposed of within a period of 3 months from the date of receipt of the order copy. The appeal itself is 10 years old, therefore the appellate Court is directed to dispose of the appeal within a period of three (3) months from the date of receipt of a web copy or a certified copy of this order and report such disposal to this Court. No costs. Consequently, the connected miscellaneous petition is closed.

30.11.2021

dsa

Internet :Yes

Index : No

Speaking order



C.R.P.(NPD).No.2596 of 2021

To

WEB COPY

The III Additional District Judge, Salem.



WEB COPY



C.R.P.(NPD).No.2596 of 2021

1.R.SUBRAMANIAN, J.

dsa

C.R.P.(NPD).No.2596 of 2021

30.11.2021