

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2021

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

C.R.P.(PD) No.1165 of 2017
and C.M.P.No.5561 of 2017

1. Kamatchi
2. M.Athiyappan

... Petitioners

Vs.

T.R.Narashimman

... Respondent

Prayer :- Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 04.08.2016 passed by the learned Subordinate Judge, Ponneri, in I.A.No.237 of 2015 in O.S.No.1 of 2013.

For Petitioners : Mr.G.Karthikeyan

For Respondent : Mr.J.R.K.Bhavanantham

ORDER

This Civil Revision Petition has been filed as against the fair and decreetal order dated 04.08.2016 passed by the learned Subordinate Judge, Ponneri in I.A.No.237 of 2015 in O.S.No.1 of 2013, thereby

dismissing the petition seeking hand writing experts opinion in respect of the agreement for sale.

2. The petitioners are the defendants in the suit filed by the respondent for specific performance on the strength of the sale agreement dated 25.11.2010. According to the respondent, on 25.11.2010, the respondent and the first petitioner herein entered into the agreement for sale. The respondent paid a sum of Rs.2,00,00/- as advance in the total sale consideration to purchase the suit schedule property. Total sale consideration was fixed at Rs.8,00,000/- In fact, the second defendant and his son signed as witness to the sale agreement. Thereafter, on 18.01.2011 further sum of Rs.25,000 paid by the respondent to the first petitioner herein. Thereafter, the first petitioner refused to execute the sale deed in favour of the respondent herein.

3. In the written statement, the petitioners categorically admitted that at the time of borrowal of loan, the respondent obtained signature in the blank stamp papers and blank green sheets. Further stated that the second

petitioner and their son never stood as witnesses to the sale agreement. Further stated that another the portion of the suit property already sold out in favour of the respondent herein. After examination of P.W.1 and after marking documents, the petitioners came forward with the present petition to send the sale agreement to get hand writing experts opinion to verify the signature with the admitted signature. The trial Court dismissed the above said petition as against which the present Civil Revision Petition.

4. The learned counsel appearing for the petitioners would submit that signature found in the agreement for sale and other documents such as vakalath and written statement are completely different one. She never entered into an agreement for sale with the first respondent herein. He further submitted that the petitioners categorically denied the signature of the second petitioner as well as their son in the agreement for sale. Therefore, they have to disprove the claim made by the respondent and they have to compare the signature in the sale agreement with the admitted signature.

5. Per contra, the learned counsel appearing for the respondent would submit that the suit was filed on 12.12.2012. The first petitioner filed written statement on 19.06.2013. After examination of P.W.1, the present petition was filed on 07.04.2015 and it is after thought. The present petition has been filed to drag the proceedings nothing but disprove Ex.P.1 i.e., the agreement for sale. After entering into the agreement on 18.01.2011, the petitioners also received a sum of Rs.25,000/- and the same was endorsed in the second page of the agreement for sale. Further submitted that the petitioners did not specifically deny the each and every allegations and only content denial of the statement. Under clause No.12 of the agreement for sale mentioned that the vendor's husband viz., Athiappan has also consented and signed as attesting witness for which, there is no denial by the first petitioner. The second petitioner did not file any written statement, when there is no specific allegations as against the second petitioner. Therefore, he prayed for dismissal of this present petition.

6. Heard Mr.G.Karthikeyan, learned counsel appearing for the petitioners and Mr.J.R.K.Bhavanantham, learned counsel appearing for the respondent.

7. The petitioners are the defendants in the suit filed by the respondent for specific performance on the strength of the agreement for sale dated 25.11.2010. Though the first petitioner denied the agreement for sale dated 25.11.2010, as she never executed the agreement for sale in favour of the respondent, she admitted that when the respondent lent money obtaining her signature in the blank stamp papers and green sheets. When it being so, the petitioners ought to have been filed petition for comparing signature immediately after filing the written statement. The suit was filed on 12.12.2013 and the written statement was filed on 19.06.2013 whereas the petitioners filed the present petition only on 07.04.2015 that too, after examination of P.W.1. Therefore, the Court below rightly dismissed the petition and this Court finds no illegality or infirmity in the order passed by the Court below.

8. Accordingly, this Civil Revision Petition stands dismissed. The trial Court is directed to complete the trial and dispose the suit within a period of six months from the date of receipt of copy of this Order. It is made clear that the petitioners are at liberty to cross examine P.W.1 in respect of the agreement for sale, which is allegedly to be forged one. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

05.03.2021

Internet : Yes

Index : Yes/No

Speaking order/Non-speaking order

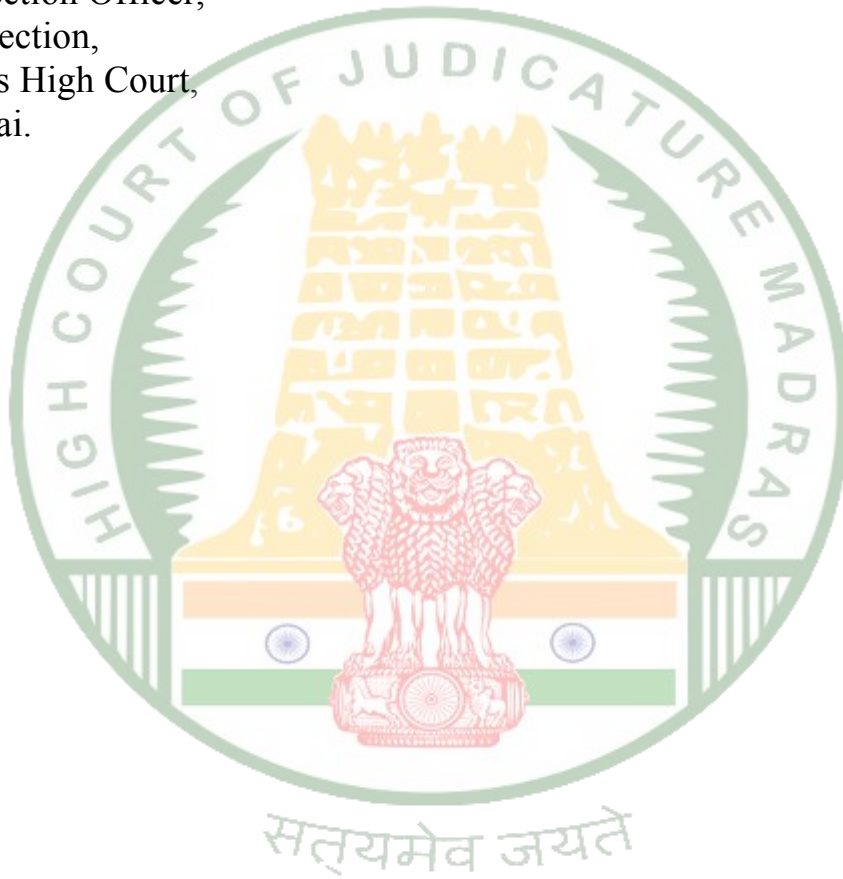
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To

1. The Subordinate Judge,
Ponneri.
2. The Section Officer,
V.R. Section,
Madras High Court,
Chennai.



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G.K.ILANTHIRAIYAN, J.

rts



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