

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.04.2021

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CRP.No.3434 of 2018

and

CMP.No.19284 of 2018

1. Mahalakshmi

2. Pramila

3. Selvan Gowtham

[Mentally ill person represented by his mother  
and next friend the 1<sup>st</sup> petitioner]

... Petitioners/Plaintiffs

Vs.

Bharathi

... Respondent/Defendant

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decretal order passed in I.A.No.37 of 2013 in A.S.No.30 of 2012 dated 31.07.2018 on the file of the I Additional District and Sessions Judge, Vellore, Vellore District and allow the CRP.

For Petitioners : Mr.K.Mohanmurali

For Respondent : Mr.A.U.Ilango

O R D E R

This Civil Revision Petition is directed against the fair and decretal order passed in I.A.No.37 of 2013 in A.S.No.30 of 2012 dated 31.07.2018 on the file of the learned I Additional District and Sessions Judge, Vellore, Vellore District, thereby, dismissing the petition filed to send the sale agreement dated 21.05.1999 and other document along with admitted signatures available in the Court bundle to the Director, the Forensic Science Laboratory Department, Kamarajar Salai, Chennai for comparison and to report through an Advocate Commissioner.

2. The petitioners are the plaintiffs and the respondent is the defendant. The petitioners filed a suit for specific performance, on the strength of the agreement for sale dated 21.5.1999. The suit was dismissed by the judgment and decree

dated 25.03.2011. Aggrieved by the same, the petitioners filed an Appeal Suit in A.S.No.30 of 2012. While pending the Appeal Suit, the petitioners filed a petition to send for the agreement for sale dated 21.05.1999, vakalat of the first respondent, written statement, deposition and other admitted signatures available in the Court bundle to the Director, the Forensic Science Laboratory Department, Kamarajar Salai, Chennai for comparison and to report through the Advocate Commissioner.

3. On a perusal of the written statement filed by the deceased first defendant, she specifically denied the agreement for sale and also receipt of the advance amount. She further stated in the written statement that she never executed any agreement for sale as alleged in the plaint and it was fabricated one. Further, she specifically denied the signature found in the agreement for sale and she had no occasion to enter into the sale agreement since she had no intention to sell the suit property.

4. On a perusal of the findings of the Court below, it concluded that the signature found in the agreement for sale does not tally with the admitted signatures. Therefore, the petitioners filed the present petition only to fill up the lacuna and that too after dismissal of the suit, the petition has been filed. If at all the petitioners aggrieved by the stand taken by the deceased first defendant, they could have very well filed a petition before the Court below itself. Without doing so, when the Appeal Suit was posted for arguments, the petitioners have come forward with the present petition. Therefore, the Court below rightly dismissed the same and this Court finds no infirmity or irregularity in the order passed by the Court below.

5. Accordingly, this Civil Revision Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

s/d-  
Assistant Registrar

True Copy

Sub-Assistant Registrar

kv  
To

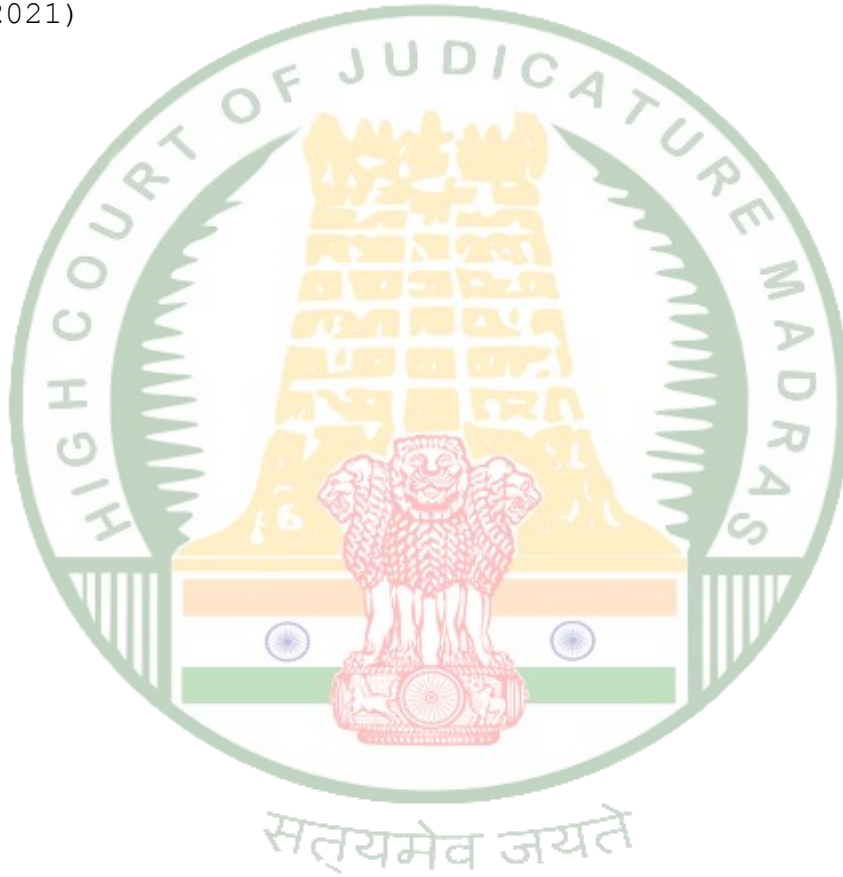
1. The I Additional District and Sessions Judge, Vellore,  
Vellore District

Copy to  
The Section Officer,  
V.R. Section, High Court of Madras.

+1 CC to Mr.K.Mohanmurali, Advocate sr 23431.

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AJS (CO)  
SP(14/06/2021)



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