



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 09.07.2021

PRONOUNCED ON : 16.07.2021

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CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

CRP(MD)No.1072 of 2014

MP(MD)No.1 of 2014

(Through Video Conferencing)

Pappa ...Petitioner/Petitioner/Defendant

Vs

Murugeswari ...Respondent/Respondent/Plaintiff

Prayer:- This Civil Revision Petition under Article 227 of the Constitution of India has been filed, against the fair and decreetal order dated, 12.12.2013, passed in IA.No.1292 of 2013 in OS.No.295 of 2012, by the Principal District Munsif, Sankarankoil.

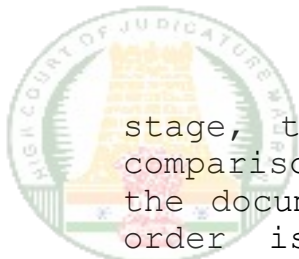
For Petitioner : Mr.F.X.Eugene

For Respondent : Mr.S.Variq Ali for Mr.D.Nallathambi

ORDER

- 1.This Civil Revision Petition has been filed, against the fair and decreetal order dated, 12.12.2013, passed in IA.No.1292 of 2013 in OS.No.295 of 2012, by the Principal District Munsif, Sankarankoil.
- 2.The facts of the case are that the Defendant is the Petitioner and the Plaintiff is the Respondent. The suit was filed for declaration and permanent injunction. The Petitioner had also sought counter claims for declaration and permanent injunction and declaration that the sale deed dated 8.2.2012 is null and void. In the suit, the Defendant had filed the above application, seeking to send the admitted document along with the disputed document for comparison by an handwriting expert. Since the said application was dismissed by the impugned order, this Civil Revision Petition has been filed.
- 3.The learned counsel for the Petitioner has submitted that since there is a plea of forgery and in order to arrive at a proper adjudication, opinion of an expert, regarding the disputed signatures and the admitted signatures, is necessary and hence, the court below ought to have allowed the application.

4.The learned counsel for the Respondent has submitted that at this



stage, there is no necessity arises to send the documents for comparison by an expert and that it is for the Petitioner to prove the documents, in a manner known to law and hence, the impugned order is proper.

5. This court heard the learned counsel on either side and considered their submissions and also carefully perused the materials placed on record.

6. It is seen from the records that the suit was filed for declaration and permanent injunction. On 21.2.2013, the Defendant had filed a counter claim petition, seeking the relief of declaration, permanent injunction and for declaration that the sale deed, dated 8.2.2012 is null and void. One Moovendran is the Power Agent, who had obtained the power deed dated 29.11.2010 and executed the sale deed in respect of the suit property in favour of the Defendant on 10.8.2012. It is the case of the Defendant that after purchasing the suit property on 10.8.2012 by the Defendant from the said Moovendran, the said sale deed, dated 8.2.2012 had been created fraudulently, by forging the signature of Moovendran. It is also the case of the Respondent that the sale deed dated 8.2.2012 was executed by Moovendran in his favour. On 2.9.2013, the present application had been filed by the Defendant to compare the signatures of the said Moovendran, in the Power Deed, dated 29.11.2010 along with the sale deeds dated 10.8.2012 and 8.2.2012. Both the Defendant and the Respondent have relied upon their respective sale deeds.

7. At the out set, it is settled principle of law that a party, relying on a particular document, should prove such a document, in a manner known to law. On considering the above facts and circumstances of the case, the court below has also held that it is for the parties to prove the said documents by examining the vendor, who have executed the sale deeds in their favour, but without taking steps to prove the sale deeds in favour of the Defendant, the application seeking to compare the signatures of the Power Agent is not sustainable and holding so, the court below had dismissed the application, as devoid of merits, by the impugned order, which in the opinion of this Court, does not suffer from any infirmity or illegality.

8. In fine, this Civil Revision Petition is dismissed. No costs. Consequently, the connected MP is closed.

Sd/-

Assistant Registrar (T&P)

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Sub Assistant Registrar (CS)

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To

1.The Principal District Munsif, Sankarankoil

CRP (MD) No.1072 of 2014
16.07.2021

MGJ(26.07.2021) 3P 2C

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