



C.R.P.(PD).No.2785 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.01.2022

CORAM:

**THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI**

C.R.P.(PD).No.2785 of 2015

and

M.P.No.1 of 2015

T.Senthilmurugan

... Petitioner

Versus

1.Balamani

2.Soundirapandian

3.Thangavel

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal orders dated 09.10.2014 in I.A.No.427 of 2014 in O.S.No.256 of 2010 on the file of the Additional District Munsif's Court, Chidambaram.

For Petitioner : Ms.R.Meenal

For Respondents : Mr.N.Sankaravadivel for R1 and R2  
No Appearance for R3



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## ORDER

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This Civil Revision Petition has been filed against the fair and decreetal orders of the Additional District Munsif's Court, Chidambaram, dated 09.10.2014, in I.A.No.427 of 2014, in O.S.No.256 of 2010.

2. The learned counsel for the petitioner submits as follows:

(i) The Court below failed to see that the petitioner, as plaintiff, is anxious to get a decree and that he has no intention to protract the proceedings;

(ii) The trial Court gravely erred in finding that the burden of disproving the LTI was on the 1st respondent overlooking the fact that the plaintiff has to prove his case;

(iii) The trial Court ought to have noted that Ex.A2 is a vital document and that since it is contended to be a forged document, the LTI of the 1st respondent principal has to be proved by the petitioner.



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3. The learned counsel for the defendant/respondent submits

that they have filed a written statement in the year 2011, wherein, it was clearly stated about the nature of the settlement deed. The first defendant not given any power to the 3<sup>rd</sup> defendant and no such settlement deed was executed as referred in the sale deed dated 23.06.2008. But, issues are framed and trial was begun on 09.10.2011 and witnesses were examined as DWs.1 and 2. At that time, the plaintiff has filed this application to sent Exs.A2 and A5, with regard to dispute L.T.I of Balamani to Forensic Science Department in I.A.No.427 of 2014. After closure of the plaintiff's side evidence, at this stage, they have filed this application and Dws.1 and 2 are also examined at this stage.

4. Considering that the trial Judge concluded that burden of disproving the execution of sale deed or not is on the plaintiff. Besides that, the petition was also belatedly filed. Accordingly, this petition was dismissed against which, the revision was filed.



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5. The revision petitioner has filed a suit in O.S.No.256 of 2010

before the Additional District Munsif, Chidambaram, for the relief of declaration of title deed and consequently injunction with regard to the suit property based upon the sale deed and settlement deed. It is also contended that the general power deed dated 22.03.2000 is a rank forgery. Now the dispute is with regard to execution of power deed and as well as the subsequent settlement deed.

6. Considering the fact that the plaintiff wants declaration of title over the property by proving execution of those documents, he has filed the application seeking to send the documents for expert opinion. Admittedly this is a belated one. But, the right of the plaintiff shall not be denied.

7. This Court is inclined to allow this petition as prayed for subject to petitioner paying a sum of Rs.10,000/- to the defendant. Accordingly, this petition is allowed and the petitioner is directed to pay a sum of Rs.10,000/- [Rupees Ten Thousand only] to the defendant. The trial Court is directed to sent the documents for expert opinion and dispose of the



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case within a period a three months from the date of receipt of getting the expert opinion. Consequently connected Miscellaneous Petition is Closed.

No costs.

21.01.2021

Internet : Yes / No

Index : Yes / No

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To  
The Additional District Munsif's Court,  
Chidambaram.

**T.V.THAMILSELVI, J.**



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21.01.2021