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CMP.No.8310 of 2022

in

S.A.No.390 of 2022

P.T.ASHA, J.,

The above Civil Miscellaneous Petition has been filed seeking stay of all further proceeding in O.S.No.32 of 2009 dated 03.01.2017 on the file of the Additional Subordinate Judge, Chengalpet, pursuant to the judgement and decree passed in A.S.No.11 of 2009 of the Principal District Judge of Kancheepuram District at Chengalpattu.

2. The suit in question is one for specific performance and the appellant before this Court is the defendant therein. This Court has today admitted the above Second Appeal in the light of the substantial question of law that has arisen therein.

3. Since, the Court finds that there is a substantial question of law involved in the Second Appeal, there shall be an order of interim stay of execution of the sale deed alone till the disposal of the Second Appeal. The above Civil Miscellaneous Petition is allowed considering the fact that the Court has also heard the learned counsel for the respondent herein.

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12.10.2022

(6/6)



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P.T.ASHA, J.,

shr

C.M.P.No.8310 of 2022
in
S.A.No.390 of 2022

12.10.2022
(6/6)

S.A.No.390 of 2022



P.T.ASHA, J.,

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“ 1. When the opinion of the Expert is not seriously disputed whether Appellate Court is correct in approving the finding of the Trial Judge the signature of the Appellant tallies with the signature in Vakalat, Written Statement and deposition by evoking Sec.73 of Evidence Act, and hold that sale agreement is signed by the Appellant which is contrary to law laid down by the Hon'ble High Court?

2. Whether the Appellate Court committed grave error in approving the conclusion of Trial Judge the signature of the Appellant in Vakalat and written statement is same as that of the signature in the sale agreement dated 07.08.2008 and that same compared with signature available for contemporary period which directly against well considered judgement of this Hon'ble High Court in CRP(PD) No.3747, 3748/2015 in the case of Kannagi Rep. by her GPA Govindaraj V. Kandasamy dated 11.06.2016?

3. Whether the Appellate Court is correct in dismissing the I.A.No.708 of 2017 in A.S.No.11 of 2017 for marking the certificate copy of the document to prove the above fact and correction of date in the stamp paper i.e. obtained under the



RTI Act by holding that concerned officials must be summoned and examined, which is direct contravention of Sec.65(F) of Evidence Act that certified copy can be treated as secondary evidence and can be marked this document is a clear proof of fraud committed by the Respondent/Plaintiff?

4. Whether the appellate court in granting the relief of specific performance in favour of Plaintiff/Respondent against the well-known legal principle that too the plaintiff/respondent in guilty of fraud when he gave the wrong address of defendant/appellant to get an ex parte decree both in the suit and execution petition by misleading the court to have the sale deed executed in his favour is entitled to be believed ?

5. Whether the Judgement and Decree of the Appellate Court is liable to be set aside for not following the principles laid down in Order 41 Rule 31 of CPC which is mandatory in nature? "

Notice.

12.10.2022

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Note: Registry is directed to send a copy of the Substantial Questions of law framed by this Court along with the Notice.



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P.T.ASHA, J.,

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S.A.No.390 of 2022

12.10.2022
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