



C.R.P. No.2290 of 2020 & CMP No.14363 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2022

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

CRP No.2290 of 2020

&

C.M.P. No.14363 of 2020

1. E. Sagunthala
2. E. Sathiyathan

... Petitioners

Vs.

P.S. Ravichandran

... Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal orders dated 13.03.2020 passed in I.A. No.534 of 2019 in O.S. No.153 of 2010 on the file of the Subordinate Court, Ponneri.

For Petitioners : Mr. D. Duraivelpandian

For Respondent : Mr. R. Krishnaswamy

ORDER

This Civil Revision Petition is filed against the fair and decreetal orders dated 13.03.2020 passed in I.A. No.534 of 2019 in O.S. No.153 of 2010 on the file of the Subordinate Court, Ponneri.



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2. For the sake of convenience the parties are referred to as per their ranking in the trial court in the Original Suit and in appropriate places, their ranking in the present petition would be indicated.

3. The revision petitioners are the defendants 5 and 6 in O.S.No.153/2010 on the file of the Subordinate Court, Ponneri. The respondent/plaintiff filed the suit for specific performance of contract. The revision petitioners/defendants 5 & 6 filed their written statement and other defendants remained absent and were set exparte. Thereafter the matter was posted for trial after settlement of issues.

4. The respondent/plaintiff examined himself and marked several documents. A photostat copy of the Power of Attorney deed executed by the defendants 1 to 4 in favour of the 7th defendant was marked as Ex.A2. Admittedly the revision petitioners did not raise any objection at the time of marking the said document. Subsequently, they filed an application in I.A. No.534/2019 under Section 65(B) of the Evidence Act for rejecting the photostat copy of Power of Attorney deed which was marked as E.xA2.



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According to the revision petitioners, the 7th defendant was set exparte in the suit and the photostate copy of the Power of Attorney deed in his favour cannot be marked through the plaintiffs.

5. The respondent/plaintiff filed his counter contending that one Babu Reddy was the Power Agent (7th defendant), who is in possession of the original Power Deed and that he handed over only the photostat copy of the Power of Attorney deed and therefore, he could not file the original document.

6. After full contest, the learned subordinate Judge, Ponneri dismissed the said application vide his orders dated 13.03.2020. Aggrieved over the same, the present Civil Revision Petition is filed by the defendants 5 & 6.

7. Heard Mr. D. Duraivelpandian, learned counsel appearing for the revision petitioners and Mr. R. Krishnaswamy, learned counsel appearing for the respondent.



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8. It is seen from the records that the respondent/plaintiff did not issue any notice to the 7th defendant to produce the original Power of Attorney deed nevertheless a copy of the Power of Attorney deed was marked as Ex.A2 and that the revision petitioners/contesting defendants 5 and 6 did not raise any objection.

9. The learned counsel for the revision petitioners would contend that at the time of marking the document, the counsel for the revision petitioners were not present before the Court. This contention cannot be accepted. The trial court after citing the decision of this Court in ***Bajaj Auto Ltd. Vs.TVS MotorCo. Ltd.*** reported in ***2016 4 LW 865*** and the decision of the Supreme Court in ***Dayamathi Bai vs. K.M. Shaffi*** reported in ***2004 7 SCC 107*** had categorically held that when there was no specific objection at the time of marking the document in question by the plaintiff during the course of trial, the rejection of document cannot be sought at a subsequent stage when there is no specific plea as to the authenticity / veracity or genuineness of the document. I do not see any infirmity in the orders passed by the learned Subordinate Judge, Ponneri.



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10. In the result,

- i. the Civil Revision Petition is dismissed. No costs. Consequently connected miscellaneous petition is dismissed.
- ii. the fair and decreetal orders dated 13.03.2020 passed in I.A. No.534 of 2019 in O.S. No.153 of 2010 on the file of the Subordinate Court, Ponneri, is upheld.
- iii. Since the suit is of the year 2010, the learned Subordinate Judge, Ponneri, is directed to dispose of the same as expeditiously as possible.

02.11.2022

Index : Yes/No

Internet : Yes/No

Speaking/non speaking
bga

To,

1. The Subordinate Judge, Ponneri.
2. The Section Officer, VR Section, High Court, Madras.



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R. HEMALATHA, J.

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