



CRP (PD) Nos. 2352/2017 & 2812 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

CRP (PD) Nos. 2352/2017 & 2812 of 2014

And

C.M.P.Nos. 11073/17 & 1 of 2014

Arunachalam

... Petitioner/1st Defendant/Petitioner in both
C.R.Ps.

Vs

Mohammed Ibrahim

... Respondent/Plaintiff/Respondent in both
C.R.Ps.

PRAYER in C.R.P.(PD).No. 2352 of 2017: Civil Revision Petition filed under Article 227 of the Constitution of India against the order and decretal order 17.03.2017 made in I.A.No. 25 of 2017 in O.S.No. 155 of 2007 on the file of the District Munsiff, Udhagamandalam.

PRAYER in C.R.P.(PD).No. 2812 of 2014: Civil Revision Petition filed under Article 227 of the Constitution of India against the order and decretal order 07.04.2014 made in I.A.No. 576 of 2013 in O.S.No. 155 of 2007 on the file of the District Munsiff, Udhagamandalam.



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For Petitioner in
both C.R.Ps. : Mr. S.Rajmakesh

For Respondent in
both C.R.Ps. : Mr. L.Mouli

COMMON ORDER

Both these Civil Revision Petitions have been filed by the first defendant P.Arunachalam in O.S.No. 155 of 2017 which is now pending on the file of the District Munsif Court, Udhagamandalam.

2. The plaintiff is the first respondent herein.

3. Let me refer to the parties in the same nomenclature as in the suit, namely, as plaintiff and the first defendant.

4. The entire issue surrounds a property measuring 0.22 acres in S.No. 1810/2A and 1810/2B out of which, the area involved in the litigation is 0.01 acre (436 sq.ft.) of land together with building bearing Old Door No. 46-A, New No. 122B, which is part of a portion of the building Ellen Cottage, Hospital Road, Ootacamund, The Nilgiris.



5. The plaintiff V.Mohammed Ibrahim and the first defendant

P.Arunachallam, claim title to the very same property. The plaintiff claims title from a sale deed executed by one Krishnappa in the year 2002. It is claimed that Krishnappa had purchased the said property by document No. 461 of 1991 from the first defendant P.Arunachallam. The first defendant P.Arunachallam on the other hand claims that he had purchased the property in the year 1986 under Document No.222 of 1986.

6. Disputes arose owing to the fact that the first defendant had instituted a Rent Control Original Petition as against a third party claiming title to the property and seeking eviction. The eviction was directed. Thereafter, a Rent Control Appeal was filed. The tenant had disputed the title of the first defendant P.Arunachallam.

7. In the Rent Control Appeal, the plaintiff herein joined hands with the said tenant and let in evidence claiming title to the property and disputing the title of the first defendant herein. No order could be passed on the Rent Control Appeal with respect to the title and the parties were therefore directed to settle the issues before the Civil Court.



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8. The suit in O.S.No. 155 of 2007 now came to be instituted by the plaintiff stating that the said Rent Control Proceedings in R.C.O.P.No. 42 of 2001 and its subsequent R.C.A.No. 34 of 2003, were both null and void and that no execution or further proceedings could be permitted consequent to such decree.

9. In the year 2014, the first defendant P.Arunachallam took out an application in I.A.No. 576 of 2013 seeking to compare the signatures as found in sale deed document to Krishnappa with his admitted signatures. That application in I.A.No. 576 of 2013 was been dismissed by an order dated 07.04.2014 against which C.R.P.(PD).No. 2812 of 2014 was filed.

10. The trial however continued and I am informed that substantial evidence has been recorded. Thereafter again, the first defendant P.Arunachalam filed I.A.No. 25 of 2017, to compare the thumb impression in the document with admitted thumb impression, namely, his own thumb impression. The thumb impression is found not only on the sale



deed in favour of the Krishnappa but also in the registers available in the Registration Office. That application was also dismissed by an order dated 07.03.2017 giving rise to C.R.P.(PD).No. 2352 of 2017.

11. Both the Civil Revision Petitions have been directed to be heard together, by the Hon'ble Chief Justice.

12. Heard Mr.S.Rajmakesh, learned counsel for the revision petitioner in both the Civil Revision Petitions and Mr.L.Mouli, learned counsel for the respondent in both the Civil Revision Petitions.

13. I am informed that as on date, the plaintiff in the suit had let in evidence and the evidence on the side of the plaintiff had been closed. On the side of the first defendant, three witness have already been examined and two of them are from the Registration Office. The sale deed said to have been executed by the first defendant in favour of Krishnappa which the first defendant denies, has been marked as Ex.A-1. There is also another document Ex.B-3 and in the absence of specific particulars, during the



course of discussion in the present two Civil Revision Petitions, both the learned counsels and also this Court have come to a conclusion that it could be safely presume to be another copy of Ex.A-1 itself. This is so because quite apart from the first defendant, two other witnesses were also examined on behalf of the first defendant, who are officials from the Sub Registrar Office and have also produced a copy of the sale deed and the learned Judge at one place has commented about the original and Xerox copy. It is also seen that the Register has also been produced.

14. Now, among the document today available in the Court are Ex.A-1 sale deed said to have been executed by the first defendant in favour of Krishnappa and the documents which the Register Office maintain during the course of registering a document, namely, the registers and such other documents containing were the thumb impression of the first defendant.

15. It is the specific case of the first defendant that he had not sold the suit property to Krishnappa and that the entire document has to be interfered or rather no reliance can be placed by the Court on such



document. To determine that particular fact, it would only be appropriate that the thumb impressions are compared. The first defendant is available.

The document, namely the sale deed said to have been executed by him with Krishnappa is available. The registers from Registrars Office are also available. In some manner or the other the thumb impression of the first defendant will have to be compared with the thumb impression as found in the sale deed and in those registers to determine whether the same person had affixed the thumb impressions.

16. I would leave that to the wisdom of the trial Judge and therefore, would interfere with the order passed in I.A.No. 25 of 2017 and set it aside and direct the learned District Munsif, Uthagamandalam, to once again examine I.A.No. 25 of 2017 and examine the documents in which, the thumb impression of the first defendant P.Arunachallam and available and forward them for forensic examination in manner known to law as provided under Order 26 Rule 10-A of CPC.



17. So far as the request made in I.A.No. 576 of 2013 is concerned, namely, to compare the signatures, I would confirm the order of the District Munsif, Uthagamandalam, since the document is of the year 1991 and the Court had not been presented with admitted signatures in the year 1991 and even if such documents of that particular period are produced by the first defendant P.Arunachallam, then it can always give rise to a suspicion in the minds of the plaintiff that the documents produced might have been generated for the purpose of comparison and I would avoid such controversy to emanate in any Court of law. Therefore, the first defendant must be satisfied with the comparison of the thumb impressions alone as found in all the aforesaid documents, wherever his thumb impression is available in the procedure and in the manner known to law to be followed by the District Munsif, Uthagamandalam, in this regard.

18. In view of the above reasons, (i) C.R.P.(PD).No. 2812 of 2014 is dismissed. The order in I.A.No. 576 of 2013 dated 07.04.2014 is confirmed. (ii) C.R.P.(PD).No. 2352 of 2017 is allowed and the order dated 17.03.2017 in I.A.No. 25 of 2017 is set aside. (iii) The learned District



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Munsif, Uthagamandalam, is directed to proceed further with I.A.No. 25 of 2017 in manner known to law and in accordance with Order 26 Rule 10-A of CPC and do the necessary needful. (iv) Consequently, connected Miscellaneous Petitions are closed. (v) No costs.

07.03.2022

vsg
Index: Yes/No
Speaking order / Non speaking order

To:

1. District Munsif Court, Udhagamandalam.
2. The Section Officer,
VR Section,
Madras High Court, Chennai.



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C.V.KARTHIKEYAN, J.
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