



C.R.P(NPD) No.3499 of 2017
and
C.M.P.No.16264 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 09.12.2022

Coram:

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

C.R.P(NPD) No.3499 of 2017
and
C.M.P.No.16264 of 2017

1.C.K.Kandasamy
2.K.Selvamani

.. Petitioners

/versus/

1.K.V.Komarasamy
2.Eswari

.. Respondents

Prayer: Civil Revision Petition has been filed under Section 115 of the Civil Procedure Code praying to set aside the order passed in fair and final order dated 19.06.2017 passed in I.A.No.1159 of 2014 in A.S.No.18 of 2013 on the file of the Subordinate Judge, Bhavani and allow the above C.R.P.

For Petitioners :Mr.R.Nalliyappan
For Respondents :No appearance



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ORDER

This Civil Revision Petition has been filed against the fair and final order passed in I.A.No.159 of 2014 in A.S.No.18 of 2013, dated 19.06.2017, dismissing the application filed by the petitioners under Section 45 of the Indian Evidence Act, 1872, to send the document Ex.P4 for expert opinion.

2. Heard the learned counsel appearing for the petitioners. Though the respondents have been served notice and their names have been printed in the cause list, they are neither appearing in person nor through a counsel.

3. The petitioners filed a suit in O.S.No.273 of 2011 seeking for the relief of Mandatory Injunction to the defendants directing them to return the deposit receipts vide, Nos.264 and 265. The said suit came to be dismissed through a judgment and decree dated 24.11.2012. Aggrieved by the same, the petitioners filed A.S.No.18 of 2013 before the Court below.



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4. During the pendency of the above appeal, an application came to be filed in I.A.No.159 of 2014 to send Ex.P4 to the Forensic Department and to get an expert opinion. This application came to be dismissed by the Court below and aggrieved by the same, the petitioners have filed this Civil Revision Petition.

5. The very basis of the claim made by the petitioners was by relying upon Ex.P4, which is the receipt dated 15.06.2003. On carefully going through the order passed by the Court below, it is seen that these receipts were disbelieved by the trial Court not only on the ground that the signature found in the receipt is disputed, but also on various other grounds. The petitioners did not take any steps to send the document Ex.P4 for expert opinion during the pendency of the trial. That apart, the disputed signature alone was not the ground on which the trial Court has dismissed the suit. There were various grounds that were pointed out by the trial Court for disbelieving Ex.P4. Hence, the Court below has dismissed the application by giving cogent reasons.



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6. In the considered view of this Court, there is illegality or infirmity in the order passed by the Court below and it does not warrant interference of the Court in exercise of its revisional jurisdiction.

7. In the result, ***this Civil Revision Petition is dismissed*** and there shall be a direction to the Court below to dispose of the case in A.S.No.18 of 2013, within a period of three months from the date of receipt of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

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Index:yes/no
Speaking order/non speaking order
ari

To
The Subordinate Judge, Bhavani



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N. ANAND VENKATESH,J.

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