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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CRP(PD)(MD)No.1831 of 2021 and
CMP(MD) No.9829 of 2021

G.Prakasam ... Petitioner

Vs

1.M.Alagirisamy
2.Kannammal ... Respondents

Prayer: Petition filed under Article 227 of the Constitution of India, to call for the records relating to the impugned fair and decreetal order dated 21.09.2021, made in I.A.No.48 of 2021 in O.S.No.109 of 2015, on the file of the Additional District Judge/Fast Track Court, Kumbakonam and set aside the same and allow the Civil Revision Petition.

For Petitioner : Ms.J.Padhmaavathi Devi
For R1 & R2 : Mr.T.J.Ebenezar Charles

O R D E R

This Civil Revision Petition is filed as against the fair and decreetal order of the trial Court in I.A.No.48 of 2021 in O.S.No.109 of 2015, dated 21.09.2021.

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2.Originally, the suit was filed by the petitioner/plaintiff in O.S.No.109 of 2015 before the IV Additional District Court, Kumbakonam for the relief of specific performance. I.A.No.48 of 2021 has been filed by the respondents/defendants for referring the unregistered Mortgage Deed, dated 10.10.2008 for hand writing expert. The trial Court allowed the application by referring the document for handwriting expert by comparing the signature of the first defendant with that of the admitted signature of the first defendant in the Vakalat, affidavit and other forms and the registered sale agreement dated 24.02.2009. Aggrieved over the same, the petitioner/plaintiff has filed this Civil Revision Petition.

3.When the Civil Revision Petition was taken up for hearing on 08.04.2022, there was no representation for the petitioner and therefore the Civil Revision Petition was dismissed for default. For restoring the same, CMP(MD) No.4749 of 2022 has been filed on 20.04.2022 and this Court being satisfied with the reasons stated in the affidavit filed in support of the application, allowed the petition in CMP(MD) No.4749 of 2022 on 24.06.2022 (today), vide separate sheet.

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4.The learned counsel appearing for the petitioner submits that the only grievance of the petitioner is that the disputed document cannot be verified with the signature of the first defendant found in the Vakalat and affidavit alone and it has to be verified with the contemporary documents.

5.In reply, the learned counsel appearing for the respondents/defendants submits that he is not having any serious objection for comparing the signature of the first defendant with the contemporary documents. He further submits that order may be passed to modify to that effect for referring the disputed document for hand writing expert along with the contemporary documents. The respondents/defendants are also ready and willing to produce the contemporary documents before the trial Court.

6.In view of the specific stand taken by the respondents/defendants' counsel that they are ready to produce the contemporary documents before the trial Court and they have no objection for sending the same for handwriting expert, this Civil Revision Petition is

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allowed with the modification of the earlier order passed by the trial Court in I.A.No.48 of 2020, that the respondents/defendants shall produce the contemporary documents before the trial Court forthwith and the trial Court is directed to send the disputed document along with the contemporary documents for handwriting expert and on receipt of a report, decide the issue on its own merits and in accordance with law. No costs. Consequently, connected Miscellaneous Petition is closed.

24.06.2022
(2/2)

Index : Yes / No.
Internet : Yes / No.
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To

The Additional District Judge/Fast Track Court, Kumbakonam

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B.PUGALENDHI, J.

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Order made in
CRP(PD)(MD)No.1831 of 2021 and
CMP(MD) No.9829 of 2021

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