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CRP Nos.2138 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.08.2023

CORAM:

THE HONOURABLE Mr. JUSTICE V.LAKSHMINARAYANAN

C.R.P.No.2138 of 2019
and CMP No.13781 of 2019

Baby Sarojini

... Petitioner

Vs

1. Lakshmi
2. Kalaichelvan
3. Kalaiselvi
4. Nandakumar

... Respondents

PRAYER: Civil Revision Petitions filed under Article 227 of Constitution of India against the fair order and decretal order dated 04.12.2018 passed in I.A.No.3875 of 2017 in O.S.No.5066 of 2012 on the file of VII Assistant Judge, City Civil Court, Chennai, allowing the petition filed by the respondents herein under Order VII Rule 16 CPC praying to direct the petitioner herein to produce the original documents before the Court for examination and inspection by handwriting expert.

For Petitioner : Mr.D.Prathap
For Respondents : No appearance



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ORDER

The suit in O.S.No.5066 of 2012 was filed before the VII Assistant City Civil Court at Chennai. The plaintiffs are wife, sons and daughter of one Loganathan. According to them, the first defendant was the tenant in the property. Loganathan passed away on 03.09.2011. At that stage, the first defendant started making a claim that Loganathan had executed a Settlement Deed in her favour and therefore, she is the owner of the property. The claim of the plaintiffs is that the document is a fraudulent one and they would state that during the relevant time, Loganathan's mother was alive and she never used to say that she was illiterate and she used to affix only thumb impression.

2. Written Statement was filed stating that properties were alienated by way of release deed on receipt of Rs.15,000/-. Since there was a doubt over the very creation of the document and the signatures found therein, an application was taken out for the purpose of comparing the signatures found in Exs.B.1,B.2, B.7 and B.8 with the signatures of Loganathan and to submit a Report. This was in I.A.No.3915 of 2017. Thereafter, an application was filed in I.A.No.3875 of 2017 calling upon the petitioners to produce the originals.



The respondent filed a counter stating that she is in possession of Exs.B.1 and B.2, but, Ex.B.6 had been filed before the Rent Control Proceedings in RCOP No.1820 of 2012 and in RCA No.400 of 2015. Therefore, she sought for dismissal of the application. The learned trial Judge allowed the application, against which, the present revision has been filed.

3. Heard Mr.D.Prathap, learned counsel for the petitioner and though respondents were served, none appeared for them.

4. It has been the consistent case of the plaintiffs/respondents herein that the documents, on the basis of which, the plaintiffs claim right over the same are fabricated and hence they filed the application.

5. The objection as noticed is that the documents have been filed before the Rent Controller and the other two documents viz., Exs.B.1 and B.2 are available, but, the petition had been filed to drag on the proceedings and hence the same may not be entertained.

6. The learned trial Judge has taken into consideration these facts and



allowed the petition.

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7. Mr.D.Prathap, learned counsel would strenuously argue before me that the documents have been filed before the Rent Control Court and the appellate court and therefore, he is not in a position to produce the same. Apart from that, he would state that contemporaneous documents have not been produced and therefore, the petition is not maintainable.

8. The question of looking into the contemporaneous documents would arise only after the originals are filed before the Court and as long as the first defendant has retained the originals, the period in which the documents have to be executed etc., are premature. Once the documents are filed before the Court and when the documents have been sent for the opinion of a handwriting expert, the plaintiffs will have to produce contemporaneous documents. All that the lower Court has done in the present case is, it had directed the parties to produce the originals. It is an exercise of discretion. Apart from that, in the facts and circumstances of the case, production of originals would be necessary for the purpose of comparison. Therefore, I am not inclined to interfere with the order passed by the VII Assistant Judge, City Civil Court, Chennai in



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I.A.No.3875 of 2017 in O.S.No.5066 of 2012.

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9. In fine, the Civil Revision Petition is dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

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Index: Yes/No

Speaking order/Non-speaking order

sr

To

The VII Assistant Judge,
City Civil Court, Chennai.



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V.LAKSHMINARAYANAN,J.

SR

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