



C.R.P.No.2696 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2023

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

C.R.P.No.2696 of 2017
and C.M.P.No.12867 of 2017

1. Mariammal
2. Mathaiyan
3. Nalla Goundan
4. Vellaiyammal
5. Arayee
6. Saroja
7. Ponnammal
8. Aayaponnu
9. Murugan
10. Mariyappan
11. Devendiran
12. Minor Vijay

Represented by guardian,
near friend his mother
Ayaponnu.

.. Petitioners

Vs.

1. Sundarammal
2. Selvam
3. Marimuthu
4. The Sub Registrar,
Sub Registrar's Office,
Mecheri Town and Post,
Mettur TK.
5. Gopalan
6. Bakkiyam
7. Nalla Kumarasamy
8. Sundarammal

.. Respondents



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Prayer:- Civil Revision Petition filed under Article 227 of Constitution of India to set aside the fair and decreetal order dated 18.10.2016 in I.A.No.668 of 2016 in O.S.No.34 of 2007, on the file of District Munsif Court, Mettur and allow the above Civil Revision Petition.

For Petitioners : Mr.R.Subramanian

For R1, R2,
R5 to R8 : Mr.P.Mani

For R4 : Mr.C.Sathish, Government Advocate

ORDER

This Civil Revision Petition has been filed as against the fair and decreetal order dated 18.10.2016 in I.A.No.668 of 2016 in O.S.No.34 of 2007, on the file of District Munsif Court, Mettur, thereby dismissing the petition seeking expert opinion.

2. The petitioners are the plaintiffs and the respondents are the defendants. The petitioners filed a suit for declaration declaring that the sale deed dated 31.01.1976 registered vide Document No.101 of 1976 allegedly executed by the husband of the first plaintiff in favour of the first defendant and another sale deed dated 14.02.1977 executed in favour of the first defendant registered vide Document No.288 of 1977 as null and void.



3. The case of the plaintiffs is that the suit properties were purchased by one Ponnusamy under the registered sale deed dated 12.05.1990. The said Ponnusamy is none other than the father of the plaintiffs 2 to 8 and 4th defendant. He had three sons and after oral partition, the first petitioner's husband was allotted 73 cents comprised in S.No.403/1, 35 cents comprised in S.No.395/8. Thereafter, her husband mortgaged 25 cents comprised in S.No.403/1 in favour of the first deceased defendant, on 19.05.1966 and borrowed a sum of Rs.300/-. On the said mortgage, the first deceased defendant was put in possession. While being so, on 21.01.1975, her husband died leaving behind the plaintiffs and the 4th defendant as his legal heirs. After his demise, the plaintiffs and the 4th defendant were requested to execute the extension deed for the mortgage. Therefore, the plaintiffs and the 4th defendant affixed their thumb impression in blank stamp paper and appeared to have created as sale deed. Hence, the suit.

4. Pending suit, the petitioners filed an application in I.A.No.875 of 2008 sending the sale deeds for comparison of thumb impression with their admitted thumb impression and the same was allowed and observed that if necessary, the thumb impression of her husband in the sale deed dated 31.01.1976 can be sent for comparison. According to the plaintiffs, the husband



of the first plaintiff died on 21.01.1975 and therefore in the year 1976, he cannot have executed any sale deed. Therefore, they filed an application in I.A.No.668 of 2016 seeking for original lease deeds which was registered in the year 1966 and to compare the thumb impression of the sale deed of the year 1976 for expert opinion.

5. Though, the Trial Court observed that only after four years the petitioner came forward with the petition to compare the thumb impression of the deceased husband of the first petitioner herein. That apart, the respondents categorically denied the date of death of the first petitioner's husband, since his death was registered only in the year 2006 and obtained death certificate as if he died in the year 21.01.1975 itself.

6. That apart, the petitioners sought for an expert opinion by comparing the documents of the year 1966 which was executed by her husband. Further, their specific stand is that her husband never used to have thumb impression, since he used to sign in all the documents.



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7. Therefore, the Court below rightly dismissed the petition and this Court finds no infirmity or illegality in the order passed by the Court below and this revision is liable to be dismissed.

8. Accordingly, this Civil Revision Petition is dismissed. Consequently, connected Miscellaneous petition is closed. No costs.

01.02.2023

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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G.K.ILANTHIRAIYAN,J.

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To

The District Munsif Court, Mettur.

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