



CRP No.3522 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.08.2023

CORAM:

THE HONOURABLE Mr. JUSTICE V.LAKSHMINARAYANAN

C.R.P.No.3522 of 2019
and CMP No.23100 of 2019

C.P.Nallasami

.... Petitioner

Vs

Marukutti @ K.M.Marappa Gounder (died)

- 1.K.M.Perumal Gounder
- 2.A.Venkidusami
- 3.Murugayal
- 4.The Sugarcane Manager,
Sakthi Sugars Ltd.,
Appakoodal,
Bavani Taluk,
Erode District
- 5.Bakkiyalakshmi

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 10.06.2019 made in I.A.No.485 of 2018 in O.S.No.82 of 2008 on the file of the learned District Munsif Court, Gobichettipalayam.



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For Petitioner : Ms.Adhi Shree
For Mr.N.Manokaran

For Respondents : Mr.M.Guruprasad
For R.1 and R.5
M/s Meena
For R.2 and R.3
R.4 – No appearance

ORDER

The plaintiff is the Civil Revision Petitioner. The suit in O.S.No.82 of 2008 has been filed by one C.P.Nallasami for permanent injunction. C.P.Nallasami claimed to be the lessee under Marukutti @ K.M.Marappa Gounder and K.M.Perumal Gounder. The plaintiff's case is that he had entered into a lease agreement with Marukutti @ K.M.Marappa Gounder in the year 2006 and with K.M.Perumal Gounder in the year 2007. He would plead that both Marukutti @ K.M.Marappa Gounder and K.M.Perumal Gounder, by way of two documents dated 15.04.2006 and 14.04.2007 had executed lease deed in favour of Sakthi Sugars, whereunder, they have admitted that the plaintiff Nallasami is in possession and enjoyment of the property. The said documents were denied and therefore, the petitioner wants to send the said documents for comparison by hand writing expert. This Application was dismissed by the trial



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Court stating that contemporaneous document has not been filed and that there is an inordinate delay on the part of the petitioner. Against the dismissal of the application in I.A.No.485 of 2018 – an application filed under Section 45 of the Indian Evidence Act read with Section 151 of Civil Procedure Code, the present civil revision petition is filed.

2. Heard Ms.Adhi Shree, appearing for Mr.N.Manoharan, learned counsel for the petitioner and Mr.M.Guru Prasad, learned counsel for the respondents 1 and 5 and perused the materials available on record.

3. The existence of the lease itself has been denied by the defendants 1 and 2. The defendants 1 and 2 had sold the property to the fourth defendant Murugayal on 04.03.2008. The sale is not in dispute. The contemporaneous document is already available before the Court viz., the admitted sale deed executed by K.M.Perumal Gounder and Marukutti @ K.M.Marappa Gounder. What the petitioner seeks to prove by sending the documents dated 15.04.2006 and 14.04.2007 is that the defendants 1 and 2 have conceded to the fact that the petitioner was a lessee under them. This is a third party document entered into



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between the defendants 1 and 2 and 5. The existence of the said document is not denied. By comparing the signature, if it is proved that the lease executed by Marukutti @ K.M.Marappa Gounder and K.M.Perumal Gounder in favour of Sakthi Sugars is true and genuine, then, automatically certain benefits will go to the plaintiff.

4. I am not going into the merits of those issue in this revision and I am confining myself only with respect to the scope of Section 45 of the Indian Evidence Act. I feel that if the document is compared, it will help the Court at the time of marshalling of evidence. Therefore, the application in I.A.No.485 of 2018 is allowed with the following conditions:

(i) The petitioner shall pay to the respondents 1 and 5 a sum of Rs.10,000/-(Rupees ten thousand only) towards costs for the delay caused in filing the application ;

and

(ii) On payment of cost of Rs.10,000/-(Rupees Ten thousand only), the Court below is requested to send the documents dated 15.04.2006 and 14.04.2007 to have them



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compared along with the sale deed dated
04.03.2008 and obtain a Report.

5. The said exercise of obtaining Report of the Handwriting Expert shall be completed within a period of three months from today. The suit in O.S.No.82 of 2008 should be disposed of on or before 31.03.2024. The cost for sending the documents to the Handwriting Expert together with Advocate Commissioner fees, if any, shall be borne by the petitioner.

6. It is made clear that if the cost of Rs.10,000/-, imposed by this Court, has not been paid, the Civil Revision Petition shall stand dismissed automatically.

7. With the above direction, the Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is allowed.

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Index: Yes/No
Speaking order/Non-speaking order
sr



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V.LAKSHMINARAYANAN,J.

SI

To

The District Munsif Court, Gobichettipalayam.

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