



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **26.09.2023**

CORAM

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.No.3990 of 2019
and C.M.P. No.26270 of 2019

Jyothi @ Lalitha

... Petitioner

Vs

P.Krishnayya

... Respondents

PRAYER:-Civil Revision Petition filed under Section 115 of the Code of Civil Procedure to under Article 227 of the Constitution of India against fair and decretal order dated 10.09.2019 passed in I.A.No.1 of 2019 in O.S.No.25 of 2014 by the learned District Munsif Court, Krishnagiri.

For Petitioner : Mr.Dinesh kumar
for Mr.Mukund R. Pandiyan

For Respondent : Mr.S.Lakshmanaswamy
for Mr.P.M.Duraiswamy

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ORDER

This Civil Revision Petitioner is the plaintiff in the suit. The suit was filed for declaration of title and for permanent injunction insofar as the first item is concerned and for declaration and recovery of possession insofar as the second item is concerned. She also sought for a relief that the sale deed Document No.575 of 1995, dated 22.06.1995 is null and void.

2. In the written statement, the defendant took a plea that the plaintiff had executed a sale deed for the second item and therefore, the suit is not maintainable in so far as that item is concerned. Denying that aspect, the plaintiff filed I.A.No.1 of 2019 for comparison of her thumb impression and signature in the sale deed, dated 22.06.1995 in Document No.575 of 1995 along with the signature found in the Vakalath.

3. This application was resisted by the defendant on the ground that there is a delay in filing the application and that subsequent documents

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which have come to effect after the litigation has commenced cannot be considered. This application came to be dismissed by the trial Court on 10.09.2019 against which the present Revision has been filed.

4. Heard Mr.Dinesh Kumar, for Mr.Mukund R. Pandiyan, learned counsel for the petitioner and Mr.S.Lakshmanaswamy, for Mr.P.M.Duraiswamy, learned counsel for the respondent and have carefully gone through the records.

5. It is the categorical case of the plaintiff/petitioner that she had not executed the Document No.575 of 1995, dated 22.06.1995. I agree with the learned counsel for the respondent that the question of comparing the signatures found in the Vakalth and plaint with the signatures found in the impugned document is impermissible. Contemporaneous documents alone must be utilised for the purpose of comparison of signatures. A signature taken in the year 1995 cannot be compared with the plaint that has been filed in the year 2014. They are separated by nearly two decades and obviously when compared the signature of a person will differ. If the application is

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allowed insofar as the signature is concerned, it will do huge prejudice to the defendant. Apart from that, the learned counsel for the respondent is correct that no contemporaneous document has been presented by the plaintiff. Therefore, the order insofar as dismissing the petition with respect to the comparison of signatures is upheld.

6. There remains yet another portion which I have to deal with, that is the comparison of the thumb impression. The thumb impression, of a person remains the same till the death of the person. In the present case, in the sale deed, the thumb impression has been taken which is the categorical case of the defendant. Therefore, comparison of the thumb impression of the plaintiff with the impugned document would not cause prejudice to either party. If the thumb impression comes out to be true, the case of the defendants stand fortified. Therefore, I am constrained to interfere with the dismissal of the petition insofar as the thumb impression is concerned. Therefore, the following order is passed.

(i) The order and decretal order in I.A.No.1 of 2019

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in O.S.No.25 of 2014 on the file of the learned (iv)The said exercise shall be completed within a period of three months from the date of receipt of a copy of this order . District Munsif Court, Krishnagiri dated 10.09.2019 is set aside, in so far as it relates to refusal to appoint an Advocate Commissioner for taking the thumb impression of the plaintiff for comparison with the impugned document is concerned.

(ii)The learned District Munsif is requested to appoint an Advocate Commissioner, who shall take the thumb impression of the plaintiff in the presence of the Court.

(iii)Thereafter, the learned Advocate Commissioner shall take the specimen thumb impressions taken in the Court along with the photographs of the original document in Document No.575 of 1995 dated 22.06.1995 and the thumb impression found in the register before the Sub Registrar at Vepanapalli. The learned Advocate



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Commissioner shall thereafter take it to the Department of Forensic Sciences, Kamaraj Salai, Chennai and obtain a report on the thumb impression found in the specimen signature, the document which is impugned in the suit as well as the one found in the record of the Sub Registrar.

(iv) The said exercise shall be completed within a period of three months from the date of receipt of a copy of this order.

(v) The cost of the said exercise shall be borne by the plaintiff.

7. With the above directions, this Civil Revision Petition is allowed in part. No costs. Consequently, connected miscellaneous petition is closed.

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gba

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Speaking order: Yes/ No

Neutral Citations: Yes/ No

To

The District Munsif Court, Krishnagiri.

V. LAKSHMINARAYANAN,J.

Gba

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