



C.R.P.(MD).No.2013 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 24.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

C.R.P.(MD)No.2013 of 2019

and

C.M.P(MD) No.10379 of 2019

Perumalsamy (died)
Ramalakshmi

... Petitioner/ Petitioner/Plaintiff

-vs-

S.Athilakshmi

... Respondent/Respondent/Defendant

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the order dated 23.09.2019 passed in I.A.No. 299 of 2018 in O.S.No.53 of 2012 on the file of the Sub Court, Kovilpatti.

For Petitioner : Mr.G.Karnan

For Respondent : Mr.H.Arumugam

ORDER

The present Civil Revision Petition has been filed by the petitioner under Article 227 of the Constitution of India, against the order dated



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23.09.2019 passed in I.A.No.229 of 2018 in O.S.No.53 of 2012 on the file of the Sub Court, Kovilpatti.

2. The revision petitioner is the plaintiff and the respondent is the defendant before the trial Court.

3. For the sake of convenience, the parties will be referred as per the litigative status before the trial Court.

4. The short facts, which give rise to the instant Civil Revision Petition are that the petitioner/plaintiff has filed the suit in O.S.No.53 of 2012 for the relief of specific performance based upon the sale agreement dated 02.08.2011. The respondent/defendant has disputed the very execution of the sale deed and also objected that the signature found in the sale deed as forged. However, in paragraph No.7 of the written statement filed by the defendant, she had recorded her no objection to send for the disputed sale agreement dated 02.08.2011 to the handwriting expert to be compared with the admitted documents, such as, sale deed, Pan card and other documents. The said application was numbered as I.A.No.299 of 2018



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5. It appears that though the written statement was filed during the year 2017, the petitioner came up with an application during the year 2018, in which, they sought for a prayer to send the original Sale Deed No.(BNG (U) JPN.189/2012-13) which is available from the J.P.Nager, Sub Registrar Office, which has the original signature of the defendant, for comparison.

6. The said application was objected by the respondent/defendant on the ground that the same was filed with a delay, and it was also contended that the original sale deed would not be available before the Registrar Office, and when there are hundreds of Sub Registrar Offices at Bangalore, the very address mentioned in the petition is vague. Hence, he prayed for dismissal of the application.

7. The learned trial Judge, after considering either side submissions, agreed with the contention of the defendant and has ultimately dismissed the application on the ground that the prayer in the application is not clear and also on the ground that there is a delay in filing the said application.



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8. This Court has given its anxious consideration to the submissions of the learned counsel on either side.

9. From the perusal of the petition, the prayer sought for by the petitioner is to direct the Sub Registrar Office to submit the original sale deed in the registration No.(BNG (U) JPN.189/2012-13) to the Court. However, there is no prayer with regard to sending the documents for comparison of signature.

10. As rightly submitted by the learned counsel for the respondent, whenever sale deed is registered, the original sale deed would be handed over to the purchaser of the property. Therefore, there is no occasion to retain the original sale deed in the office of the Registrar.

11. On perusal of the counter statement, the factum of having the original deed with the respondent has not been disputed, and what they have disputed in their counter statement is that the Sub Registrar Office can have only the original signature of the parties concerned. Therefore, as rightly submitted, even if the petition is ordered, the Sub Registrar could not submit



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any document before this Court, as the original would always be given to the purchaser of the property. Therefore, as rightly found by the learned trial Judge, the very prayer sought for is defective and vague. Therefore, this Court does not want to interfere with the order of the learned trial Judge.

12. In the result, this Civil Revision Petition is **dismissed**. However, liberty is granted to the petitioner to file an appropriate application to send the documents to expert for comparison of the signature with the admitted signature of the defendant, within a period of four weeks from the date of filing of the application. In such an event, the trial Court is directed to dispose of the said application within a period of one month thereafter. There shall be no order as to costs. Consequently, the connected Miscellaneous Petition is closed.

24.07.2023

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NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To
1. The Sub Court,
Kovilpatti.



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