



C.R.P.PD.No.337 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.08.2024

CORAM :
THE HONOURABLE MRS. JUSTICE R.KALAIMATHI

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Ramanathan

... Petitioner

Vs.

Rajendran

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the fair order and decreetal order dated 18.08.2022 made in I.A.No.362 of 2021 in O.S.No.220 of 2019 of the learned Sub Court, Ulundurpet.

For Petitioner : Mr.I.John Arockiadas

For Respondent : No appearance

ORDER

This Civil Revision Petition is filed by the defendant, aggrieved by the order passed in I.A.No.362 of 2021 in O.S.No.220 of 2019 dated 18.08.2022, on the file of Sub Court, Ulundurpet.



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2. Heard Mr.John Arockiadas, learned counsel for the revision petitioner. Despite the service of notice, none represented the respondent.

3. The defendant took out an application under section 45 of Indian Evidence Act with a prayer to send the suit sale agreement dated 13.04.2018 along with his vakalat and written statement filed in the suit for the forensic experts opinion as to the truthness of the signature contained in the sale agreement dated 13.04.2018 allegedly executed by the defendant in favour of plaintiff.

4. The suit is filed by the plaintiff Rajendran against the defendant Ramanathan (Revision Petitioner) for the relief of specific performance and for other reliefs in respect of the suit properties namely 1) அ.ந.நீ.சர்வே - 232/1௭ - 0.31.0 ஏர்ஸ். 2) அ.ந.நீ.சர்வே - 233/2 - 0.23.0 ஏர்ஸ். 3) அ.ந.நீ.சர்வே - 235/4பி - 0.25.0 ஏர்ஸ்.

5. The defence taken by the defendant before the Trial Court is that the defendant is not the owner of the suit schedule properties and it is not possible for him to have executed the suit sale agreement and he is not related



to the suit schedule properties.

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6. The plaintiff has filed counter in I.A.No.362 of 2021 stating that there is no provisions of law available to send the document for the forensic department and the provision of law mentioned is incorrect. Hence, he sought for dismissal of an application filed by the defendant.

7. The learned Trial Judge chose to dismiss the petition by holding that in the petition it is not specifically mentioned whether the document has to be sent to the Government Forensic Lab or Private Forensic Lab, and provision of law quoted is not correct and it has further been observed that when the suit was posted for trial the petition has been filed belatedly.

8. Law is well settled with wrong quoting of provision of law is not disentitle to the petitioner. When the defendant has taken a clear stand that the suit property is having sold out long before and he has not executed the suit sale agreement then filing of an application to send the suit sale agreement to forensic lab cannot be taken as otherwise. Therefore, in order to do full and effective justice to the parties in the suit, the petition stands



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allowed and consequently, the impugned order stands set aside. There is no order as to costs. The Trial Court shall complete the trial as expeditiously as possible.

21.08.2024

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Index : Yes/No

Speaking Order : Yes/No

Neutral Citation : Yes/No

To:

1.Sub Court,
Ulundurpet.



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