



CRP No.408 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.01.2024

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRP No.408 of 2024 and
CMP No.1954 of 2024

1. P.Thangaraj
2. R.Tamilselvi
3. P.Babu
4. Renuga

... Petitioners

Vs.

- S.Mohanasundaram (died)
1. S..Somasundaram
 2. S.Vathaladevi

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order, dated 11.01.2024 passed in I.A.No.7 of 2024 in O.S.No.295 of 2007 by the I Additional Subordinate Judge, Coimbatore.

For Petitioners : Mr.R.Bharath Kumar

ORDER



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This Civil Revision Petition has been filed to set aside the order dated 11.01.2024 passed in I.A.No.7 of 2024 in O.S.No.295 of 2007 by the I Additional Subordinate Judge, Coimbatore.

2. The brief facts leading to the filing of Civil Revision petition is as follows:

The petitioners herein are the plaintiffs and they filed the above said suit against respondents herein/ defendants seeking specific performance to execute the sale deed with regard to the suit property, in default, to deliver vacant possession of the property to them. Pending suit, the plaintiffs filed an application in I.A.No.7/2024 to send the sale agreement dated 06.06.2006, in which the signatures of the second defendant were marked as Ex.A2 to A6, to the signature expert for verification along with his admitted signatures. The above petition was dismissed by the Trial Court on the ground that the suit is pending for more than 16 years and when the suit was posted for argument, the petition has been filed. Further, the learned Judge observed that one of the attesting witnesses to the sale agreement was



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examined on the side of the plaintiff and in such circumstances, sending the documents for getting expert opinion will definitely cause further delay to decide the suit and hence, has dismissed the petition.

3. Heard the learned counsel for the petitioner and I have perused the materials on record.

4. A perusal of the records reveals that the petitioners herein/ plaintiffs have filed the above said suit for specific performance. In the above said suit, on the side of the plaintiffs, PW1 and PW2 have been examined and Ex.P1 to Ex.P6 were marked. Further, on the side of the defendants, the second defendant was examined as DW1.

5. It is the contention of the petitioners/plaintiffs that, during trial, the first plaintiff was examined as PW1 and one of the attesting witnesses to the sale agreement, dated 06.06.2006 was examined as PW2 and the second defendant namely Somasundaram was examined as DW1. It is further



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contended by the petitioners that during cross examination, the DW1 has purposely denied his signatures found in the sale agreement, which have been marked as Ex.A2 to Ex.A6 and hence, it is necessary to get expert opinion, by comparing his signatures found in Ex.A2 to Ex.A6 along with his admitted signatures.

6. Admittedly, the case is of the year 2007 and pending suit, the sole plaintiff died and his legal heirs have been impleaded as P2 to P6, as per order in I.A.No.3/2023, dated 19.06.2023. Subsequently, the petitioners have filed the above I.A.No.7/2024. On perusal of the impugned order, it is noticed that, when the case was posted for arguments the above petition was filed. At this juncture, it is informed before this court by the learned counsel for the petitioners that, now, the case is reserved for judgment. In the suit, the petitioners/plaintiffs prayed for specific performance against the defendants to execute the sale deed infavour of them, based on the sale agreement dated 06.06.2006. In the nature of suit for specific performance, apart from the signatures found in the sale agreement, other circumstances have also to be proved by the plaintiffs for getting decree. Further, as



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observed by the learned Trial Judge, when the defendants filed their written statement in the year 2018, they have denied signatures found in the sale agreement. But, all these years, the petitioners/ plaintiffs have not taken any steps to file such petition and after recording evidence and the suit was at the stage of arguments, the petitioner filed the above application seeking to send the documents for getting expert opinion. Hence, the Trial Court has rightly dismissed the application and I find no reason to interfere with the impugned order passed by the Trial Court. As such, the civil revision petition is liable to be dismissed as it has no merits.

7. In fine, the civil revision petition is dismissed and the impugned order passed by the Trial Court is confirmed. No costs. Consequently, connected miscellaneous petition is closed.

22.01.2024

Index: Yes/No

Internet: Yes/No

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To

The I Additional Subordinate Judge, Coimbatore.



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V.SIVAGNANAM, J.,

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