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CRP No.724 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2024

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

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1.Prema
2.Sethuraman
3.Srilekha
4.Amirtham

... Petitioners

Cause title accepted vide Court
Order dated 08.02.2024 made in
CMP No.2803 of 2024 in CRP SR No.11591
of 2021 by VSGJ

Vs.

Kasimmal (Died)
1.M.N.Vedhachalam
2.S.Malarkodi
3.R.Tamilselvi
4.Suresh
5.The District Collector,
Kanchipuram District.

6.The Tahsildar,
Madhurantakam Taluk.

...Respondents



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PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order in IA No.3 of 2023 in OS No.250 of 2013 dated 07.12.2023 passed by the District Munsif, Madurantakam and allow this Revision.

For Petitioners	: Mr.S.Parthasarathy Senior Counsel for Mr.P.Dinesh Kumar
For Respondents	:Mr.V.B.Thirupathi Kumar for respondent caveator

ORDER

The civil revision petition is filed to set aside the fair and decreetal order in IA No.3 of 2023 in OS No.250 of 2013 dated 07.12.2023 passed by the District Munsif, Madurantakam and allow this Revision.

2. The petitioners are defendants 2 to 5, respondents 1 to 3 are plaintiffs 2 to 4 and respondents 4 to 6 are defendants 1, 6 and 7 in OS.No.250 of 2013 on the file of the District Munsif, Madurantakam. The suit was originally filed by one Kasiammal seeking declaration against the



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petitioners and the fourth respondent. After examination of the plaintiff, the plaintiff died on 14.03.2020. Subsequently, her legal heirs were impleaded as plaintiffs 2 to 4. After examination of the defendants' evidence, the case was posted for arguments. At that stage, the petitioners/plaintiffs filed IA No.3 of 2023 seeking to send the alleged power of attorney executed by Kasiammal on 04.02.2013 in Document No.150 of 2013 in the office of Joint Sub-Registrar-II, Central Chennai for obtaining expert opinion by comparing her admitted thumb impression with the disputed document that was marked as Ex.C1. In pursuance of the power of attorney, the fourth respondent/the first defendant sold the plaint schedule properties to the second defendant and the father of the third and fourth defendant and son of fifth defendant. The Trial court, by order dated 07.12.2023 had allowed the application. Challenging the said order, the petitioner has filed the present civil revision petition.

3. Learned Senior Counsel for the petitioners submit that though the petitioners/plaintiffs delayed the execution of power of attorney, and had



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not taken any steps for filing the petition forwarding the power of attorney for examination of forensic expert, very belatedly, after examination of trial, when the case was posted for argument, filed this petition. These revision petitioners being bonafide purchasers, this type of petition belatedly filed should not be entertained. The trial court without considering the said fact, has passed the impugned order and allowed the petition. Hence, seeking to allow the Revision.

4. Learned counsel for the respondents supported the impugned order and further contended that the original plaintiff, Kasiammal is an illiterate woman and the said Kasiammal had not executed the alleged power of attorney. Therefore, she filed the suit for declaration to declare the power of attorney as null and void. The alleged power of attorney dated 04.02.2013 is having thumb impression of Kasiammal and not the signature. Under these circumstances, the respondents/plaintiffs lost their properties fraudulently. Therefore, in the interests of justice, admitted thumb impression of Kasiammal has to be compared with the alleged power of



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attorney dated 04.02.2013 to find out the truth. The trial court has rightly allowed the application. Therefore, there is no ground to interfere in the impugned order and hence, seeking to dismiss the Revision.

5. Heard the learned counsel for the parties and perused the materials available on record.

6. It is not disputed that the power of attorney dated 04.02.2013 document No.150 of 2013 in the office of the Joint Sub-Registrar-II, Central Chennai, is contained the thumb impression of the principal i.e. Kasiammal. it shows she is an illiterate. Further, it is noticed that Kasiammal was examined before the trial court on 03.08.2017 and she was cross examined by the defendants. On a perusal of the cross examination evidence, it is noticed that the disputed power of attorney dated 04.02.2013 in Document No.150 of 2013 upon which the alleged sale deed in favour of other defendants have been executed by first defendant, was not shown to Kasiammal, whether she executed power of attorney and she affixed the



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thumb impression. The deliberate non showing of disputed power of attorney to Kasiammal makes the trial court to forward the disputed power of attorney for expert opinion to find out the truth whether the alleged thumb impression is of Kasiammal or not. Therefore, I find no infirmity in the impugned order. There is no ground for interference in the impugned order. There is no merit in the Revision. Hence, the civil revision petition is dismissed. Consequently, CMP No.3671 of 2024 is closed.

23.02.2024

Index: Yes/No
Internet: Yes/No
mrn

To
The District Munsif Court, Madurantakam



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V.SIVAGNANAM, J.

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