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C.R.P. No. 375 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.07.2024

CORAM

THE HONOURABLE Mr. JUSTICE P.DHANABAL

C.R.P. No. 375 of 2022
and
C.M.P. No. 1935 of 2022

1. Lakshmi

2. Murugan

... Petitioners / Plaintiffs / Petitioners

Vs.

1. Dhamodharan

2. Manoranjitham

3. Venkatesan

4. Babu

5. Gopal gounder

6. Murugan

7. Lakshmanan

Perumal (since deceased)

8. Elumalai

9. Veerammal

10. Bhavani

... Respondents / Defendants / Respondents



C.R.P. No. 375 of 2022

PRAYER: Civil Revision Petition is filed under section 227 of the Constitution of India, to set aside the Fair and Decretal Order dated 22.12.2021 made in I.A. No. 1133 of 2021 in O.S. No. 96 of 2012 on the file of the Principal District Munsif Court, Tindivanam.

For Petitioners : Mr. C.Munusamy

For Respondents : Mr. R.Thanjan

ORDER

This Civil Revision Petition has been preferred as against the order passed in I.A. No. 1133 of 2021 in O.S. No. 96 of 2012 on the file of the Principal District Munsif Court, Tindivanam, wherein the petitioners have filed petition before the Trial Court to send the documents for expert opinion and the same was dismissed by the Trial Court.

2. The case of the petitioners is that they are the plaintiffs in the main suit and they filed main suit for declaration and for permanent injunction. On 21.08.1997, one Chinnathampi Gounder, Duraikannu Gounder, Kali Gounder, Gopal Gounder, Perumal Gounder and Dhanabal Gounder have executed an unregistered agreement in favour of Elumalai Gounder and the same was marked as Ex.A2. While so, on 26.11.2007, the father of the 1st defendant executed a settlement deed dated 26.11.2007 in favour of the 1st defendant for an extent of 0.5 cents out of 1.50 acres in Survey No. 290/3,4 and 4A.

Similarly, the wife of Kali Gounder and his sons along with 5th



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defendant/Gopal Gounder and his sons Murugan and Lakshmanan have executed a sale deed dated 26.11.2007 in favour of the 1st defendant. Those sale deeds were marked as Ex.A6 and Ex.A7. Thereafter, the Ex.A11 was executed by one Manoranjitham/2nd defendant in favour of the 3rd and 4th defendants through settlement deed dated 23.12.2011. On 23.12.2011, the 5th defendant/Gopal Gounder executed a settlement deed in favour of the 6th and 7th defendants through Ex.A12. Therefore, the signatures contained in the above said agreement dated 21.08.1997, sale deed dated 26.11.2007 and settlement deed dated 23.12.2011 have to be compared. Therefore, the signatures found in Ex.A2, Ex.A7, Ex.A8, Ex.A11 and Ex.A12 have to be compared with the said documents through experts. Hence, they filed petition before the Trial Court.

3. The respondents filed counter stating that the Ex.A2/sale agreement itself is void under law. Therefore, the signatures found in Ex.A2 cannot be compared with Ex.A7, Ex.A8, Ex.A11 and Ex.A12. The petitioners have not examined the witnesses of Ex.A2. Already there are some admissions made by the plaintiffs through evidence and against the said admissions, the present petition is filed. Therefore, there is no necessity to compare the signatures through expert. And no documents referred in para nos. 4 to 6 in the affidavit are no way connected with the suit and the plaintiffs failed to prove the Ex.A2



and the plaintiffs are not a part to the Ex.A2. Therefore, the petition is not maintainable and the same is liable to be dismissed.

4. Before the Trial Court, no oral or documentary evidences adduced by either side. The Trial Court, after hearing both sides, dismissed the petition. Against which, the present Civil Revision Petition is filed.

5. The learned counsel appearing for the petitioners would contend that the petitioners are the plaintiffs in the main suit and they filed the main suit for the relief of declaration and permanent injunction. Already, the petitioners/plaintiffs have examined witnesses and the respondents denied the documents filed by the plaintiffs and particularly, the respondents denied the documents marked by the plaintiffs, thereby, those documents have to be proved by comparing the signatures found in those documents. To that effect, they filed application before the Trial Court. The Trial Court failed to consider the real dispute between the parties and erroneously dismissed the petition. Therefore the order passed by the Trial Court is liable to be set aside.

6. The learned counsel appearing for the respondents would contend that already before the Trial Court, both sides evidences are closed and the case is posted for judgment. At that stage, the petitioners filed application to



re-open the case and recall the witnesses and thereafter they marked documents Ex.A11 to Ex.A16, and the witnesses were also cross examined. Again the case is posted for arguments. At that stage, the present Civil Revision Petition is filed. Therefore, the Trial Court has dismissed the petition on the ground that already the case is pending for more than 8 years and both sides witnesses were examined and posted for judgment and at this stage, the petition cannot be entertained. Therefore, the order passed by the Trial Court is in accordance with law and the present Civil Revision Petition is liable to be dismissed.

7. This Court heard both sides and perused the materials available on record.

8. In this case, it is an admitted fact that already both sides adduced evidences and marked documents and the case is posted for arguments. It is also an admitted fact that already after completion of evidences on both sides, the same petitioners have filed petition to re-open the case and to examine the witnesses and thereafter, the witnesses are recalled, examined and documents were also marked. Further the petitioners have to prove the execution of documents in the manner known to law not by comparing the signatures found in the documents. The petitioners have not filed application before trial,



C.R.P. No. 375 of 2022

and now, after completion of the trial when the case is posted for arguments, filed this application after 8 years from the date of the filing of the suit.

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Further, the petitioners have not explained as to how those documents are relevant to prove this case, and already ample chances were given to the petitioners. Therefore, the petition filed by the petitioners cannot be entertained at this stage. The Trial Court also in this aspect, after elaborate discussion, dismissed the petition on the ground that the petitioners already examined witnesses and marked documents and the case is pending for more than 8 years, and when the case is posted for arguments, they filed this application only to drag the proceedings. Therefore, the order passed by the Trial Court is in accordance with law and does not warrant any interference.

9. In view of the aforesaid discussions, this Court is of the opinion that the Civil Revision Petition has no merits and deserves to be dismissed. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

10.07.2024

Index : Yes/No
Speaking order : Yes/No
NCC : Yes/No
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C.R.P. No. 375 of 2022

To

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The Principal District Munsif Court, Tindivanam.



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C.R.P. No. 375 of 2022

P.DHANABAL, J.,

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C.R.P. No. 375 of 2022

10.07.2024