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C.R.P.(PD).Nos.464 and 1381 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2024

CORAM:

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD).Nos.464 and 1381 of 2023
and C.M.P.Nos.3887 and 9255 of 2023

1.L.Kuperan

2.K.Ravi

3.R.Narasimman

... Petitioners
(in both CRPs)

VS

1.T.R.Mahadevan

2.T.R.Ellappan

3.R.Pandian
Respondents

...

(in both CRPs)

Prayer in C.R.P.(PD).No.464 of 2023: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the Order and Decreetal Order dated 08.12.2022 made in I.A.No.275 of 2015 in I.A.No.226 of 2015 in O.S.No.74 of 2015 passed by the learned District Munsif Court, Vandavasi, Tiruvannamalai District.

Prayer in C.R.P.(PD).No.1381 of 2023: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the Order dated



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08.12.2022 made in I.A.No.277 of 2015 in O.S.No.74 of 2015 passed by the learned District Munsif Court, Vandavasi, Tiruvannamalai District.

For Petitioners : Mr.V.K.Rajagopal (in both CRPs)

For Respondents : Mr.K.B.Vivekanandhan (in both CRPs)

COMMON ORDER

The Civil Revision Petition in C.R.P.(PD).No.464 of 2023 arises against the order passed by the learned District Munsif, Vandavasi, Tiruvannamalai District in I.A.No.275 of of 2015 in I.A.No.226 of 2015 in O.S.No.74 of 2015, dated 08.12.2022.

2. The Civil Revision Petition in C.R.P.(PD).No.1381 of 2023 arises against the order passed by the learned District Munsif, Vandavasi, Tiruvannamalai District in I.A.No.277 of of 2015 in O.S.No.74 of 2015, dated 08.12.2022.

3. O.S.No.74 of 2015 is a suit filed by the respondents herein for the relief of permanent injunction restraining the defendants, their men, agent, authorised person claiming through them from encumbering the property and also for a permanent injunction against the 3rd defendant not to create any



further encumbrance over the suit schedule property.

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4. The case of the plaintiffs is that they had purchased the property on 14.03.2011 from several vendors. On 28.08.2014, the 1st defendant/1st civil revision petitioner was appointed as a Power Agent by the plaintiffs. Under the guise of the power, the 1st defendant alienated the property in favour of the 2nd defendant, who is none else than his son. On 16.02.2015, the 2nd defendant appointed the 3rd defendant as his Power Agent. On account of the fact that the 1st defendant refused to submit the accounts and threatened the plaintiffs with dire consequences, the present suit came to be filed.

5. On receipt of the summons, the defendants entered appearance and the 2nd defendant had filed a detailed written statement.

6. In Paragraph No.5 of the written statement, the 2nd defendant pleaded that the 1st defendant had made the payments to the plaintiffs and for the amounts received from the 2nd defendant through the first defendant, they had also issued a receipt dated 10.09.2014. The said receipt had not been filed



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along with the written statement. However, it came to be exhibited as Ex.R10

in the application for injunction in I.A.No.226 of 2015.

7. On coming to know of this receipt being produced before the Court, the plaintiffs took out an application in I.A.No.277 of 2015 to send the document for expert opinion. The learned Trial Judge allowed the application and simultaneously reopened the application filed for injunction in I.A.No.226 of 2015 pending the receipt of the report.

8. The civil revision petition in C.R.P.(PD).No.1381 of 2023 has been preferred against the order passed in I.A.No.277 of 2015 in O.S.No.74 of 2015, dated 08.12.2022 and C.R.P.(PD).No.464 of 2023 has been preferred against the order passed in I.A.No.275 of 2015 in I.A.No.226 of 2015 in O.S.No.74 of 2015, dated 08.12.2022 by the learned District Munsif, Vandavasi, Tiruvannamalai District.

9. Heard Mr.V.K.Rajagopal, learned counsel appearing for the



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petitioners and Mr.K.B.Vivekanandhan, learned counsel appearing for the respondents.

10. Mr.V.K.Rajagopal, would contend that though the plea had been taken at the earliest point of time in the written statement, the plaintiffs did not move a little finger and it is after nearly 8 years, the application has come to be disposed of. He would state that the Court has power under Section 73 of the Indian Evidence Act, 1872 to compare the signature and does not require the support of report from the Expert. In support of his contention, he would rely upon judgments of this Court in *Muniswamy.R and 6 others vs. P.Pandiarajan and 3 others, 1993-1-L.W.186* and *Bomma Naicken vs. Chinna Gounder and another, AIR 1998 Madras 375*.

11. Mr.K.B.Vivekanandhan, would submit that the plaintiffs even in the plaint had specifically pleaded that the 1st defendant had alienated the property in favour of his own son, the 2nd defendant and despite the request for accounts, the 1st defendant did not give the same. It was only during the stage of arguments, they came to be aware of Ex.R10 and therefore, they took



out this application.

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12. I have carefully considered the arguments on either side and perused the records.

13. In so far as the position of law is concerned, as stated succinctly by Hon'ble Mr.Justice K.P.Sivasubramaniam in the case of ***Bomma Naicken vs. Chinna Gounder and another, AIR 1998 Madras 375*** (Paragraph No.8), while there is no bar for the Court to compare disputed and admitted signatures, it is always prudent to get assistance of an expert. By the mere fact that the expert submits a report on the genuineness or otherwise of the document, it does not mean the Court is bound by the same. The Court can always give reasons as to why it is not agreeing with the expert evidence. However, if there is a report of an expert on record, it will always assist the Court in order to marshal the facts properly and come to a conclusion.

14. In this regard, as already premised, though the pleading had been



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made in the written statement, the document had not been produced except at the time of arguments in I.A.No.226 of 2015. It was at that time the document came to be exhibited as Ex.R10. Therefore, at the earliest available opportunity, the plaintiffs have moved the applications. The learned Trial Judge has been very cautious and has directed that contemporaneous document relied upon by the plaintiffs namely the Cancellation of Power of Attorney dated 14.08.2014 be compared with the receipt which has come into effect on 10.09.2014. I do not find any reasons to differ from the view taken by the learned District Munsif, Vandavasi. The orders passed by the learned District Munsif, Vandavasi are confirmed.

15. Accordingly, the Civil Revision Petitions are dismissed. There shall be no order as to costs. Consequently, the connected civil miscellaneous petitions are closed.

10.07.2024

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
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To

The District Munsif Court,
Vandavasi, Tiruvannamalai District.



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V.LAKSHMINARAYANAN, J.

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