



CRP.No.914 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2024

CORAM

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

CRP.No.914 of 2023

and

CMP.No.6826 of 2023

A.Athiyammal

...

Petitioner

Vs.

V.Gunalan

...

Respondent

PRAYER : This civil revision petition has been filed under Article 227 of Constitution of India against the fair and decreetal order dated 14.12.2022 made in I.A.No.2 of 2022 in O.S.No.4 of 2022 on the file of the I Additional District and Sessions Judge, Vellore.

For Petitioner

... Ms.Chitramaragatham

For Respondent

... Mr.K.Venkatasubban
for M/s.Sarvabhowman Associates

ORDER

The civil revision petition has been filed against the fair and decreetal order dated 14.12.2022 made in I.A.No.2 of 2022 in O.S.No.4 of 2022 on the file of the I Additional District and Sessions Court, Vellore.



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2.The learned counsel appearing for the petitioner submitted that the petitioner is the defendant and the respondent is the plaintiff in O.S.No.4 of 2022 on the file of the I Additional District and Sessions Court, Vellore. The respondent filed the suit against the petitioner with the following prayer:

a.directing the defendant to execute and register sale deed in favour of the plaintiff, at the plaintiff's expenses and directing the defendant to deliver the possession of the schedule mentioned properties to the plaintiff and in case the defendant is reluctant to deliver possession of the suit properties, the same may be effected through process of law.

b.In case the defendant does not come forward to execute and register the sale deed in favour of the plaintiff, this Hon'ble Court may be pleased to execute and register the sale deed in favour of the plaintiff at the plaintiff's expenses, on behalf of the defendant and deliver possession of the schedule mentioned properties to the plaintiff;

c.Granted permanent injunction restraining the defendant, her men, agents or servants from alienating the suit property to any third parties or encumbering with the suit properties in any manner till the disposal of the suit.



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The petitioner contested the suit and denied the sale agreement. Further

contended that the petitioner filed an application under Order 26, Rule 10-

A CPC r/w. Section 45 of Indian Evidence Act for forwarding the disputed sale agreement dated 05.01.2019 for expert opinion by comparing the thumb impression in the document that of the petitioner. The trial Court dismissed the petition by passing the impugned order and recorded that the defendant has sufficient opportunity to prove her case through documents and evidence and there is no need to forward the disputed document for getting expert opinion. Therefore, it is challenged.

3.The learned counsel appearing for the respondent supported the impugned order and submitted that there is no reason to interfere with the impugned order passed by the trial Court and pleaded to dismiss the civil revision petition.

4.I have considered the matter in the light of the submission made by the learned counsel on either side and perused the materials available on record.



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5. On perusal of the records, it is noticed that the respondent filed a suit for specific performance upon the alleged sale agreement dated 05.01.2019 which was disputed by the petitioner and denied the execution of the sale agreement. Hence, the petitioner filed an application for forwarding the sale agreement and to get expert opinion about the thumb impression in the sale agreement. Further, on perusal of the written statement filed by the petitioner in the suit in para – 5, it is noticed that “this defendant is illiterate and she used to put her thumb impression alone and this defendant is not known to sign taking advantage of it the plaintiff and the said Uthayan seems to have fabricated somebody's thumb impression and created the said document dated 05.01.2019 as such it has no legal sanctity and it will not bind this defendant and the document dated 05.01.2019 is forged and fabricated one.” So, it has to be proved before the Court by letting an evidence and apart from this, the plaintiff is heavy burden to prove the sale agreement for getting specific performance decree. Therefore, it is not warranted to forwarding the disputed sale agreement for getting expert opinion with regard to the thumb impression. Hence, I find



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no infirmity or illegality in the impugned order and there is no reason to interfere with the impugned order passed by the trial Court.

In the result, the civil revision petition is dismissed. No costs.

Consequently, the connected miscellaneous petition is closed.

Index : Yes/No
Internet : Yes/No
sms

31.01.2024

To

The I Additional District and Sessions Judge,
Vellore.



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V.SIVAGNANAM ,J.

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