



C.R.P.No.1000 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.1000 of 2021

and

C.M.P.No.8053 of 2021

L.Sambasivam

... Petitioner

Vs.

- 1.Mrs.Gowri
- 2.Mrs.Vijayalakshmi
- 3.Mrs.Sumathi
- 4.G.Mahadevan
- 5.S.Sivakumar
- 6.S.Nambirajan
- 7.A.Alphonse P.Rayar.
- 8.Mrs.V.Prema
- 9.K.G.Gurusamy
- 10.Mrs.V.Nirmala
- 11.K.Venkatesan
- 12.Mrs.J.Viji
- 13.P.Selvaraj
- 14.P.Prakash
- 15.P.Krishnamurthy
- 16.Mrs.S. Valli
- 17.S.Vanniarajan

...Respondents



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PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the fair order and decretal order dated 24.02.2021 in I.A.No.1 of 2019 in O.S.No.202 of 2015 on the file of the III Additional District and Sessions Judge, Tiruvallur at Poonamallee.

For Petitioner	: Mr.M.V.Seshachari
For respondents 1,3,5,8 to11, 13to17	: Served-No appearance
For respondents 2 &4	:Mr.G.Dilip Kumar
For respondents 6 & 7	: Mr.S.Ganesh
For respondent 12	:Not ready in notice

ORDER

The Civil Revision Petition is filed challenging the order passed by the Trial Court dismissing the application filed by the petitioner seeking appointment of Advocate Commissioner to take four registered sale deeds mentioned in the petition for comparison with the admitted signature by expert.

2. The petitioner herein filed a suit for partition against the respondents claiming 1/4th share in the suit property. The contesting 4th respondent/4th defendant filed a written statement stating that petitioner sold a portion of the suit property to third parties in his capacity as power agent of his father namely Loganathan. Therefore, that portion of the suit property was not available for partition even on the date of filing of the suit.



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3. It is the specific case of the petitioner that though the power deed was executed in his favour by his father, he has not sold any property of his father Loganathan by using the said power. It is the specific case of the petitioner that the sale deeds allegedly executed by him in favour of third parties as power agent of Loganathan were forged documents. In order to prove his plea of forgery, the petitioner herein filed present application for sending the documents for comparison with the admitted signature of the petitioner by forensic expert.

4. The present petition was dismissed by the Trial Court on the ground that original sale deeds impugned by the petitioner are not available before the Court. Further, the petitioner also failed to produce any contemporaneous document containing his admitted signature for comparison with impugned sale deeds of the year 1990.

5. The learned counsel for the petitioner submits that the petitioner filed I.A.No.2 of 2021 seeking leave of the Court to produce additional document



namely a sale deed dated 19.06.1989 whereunder the petitioner sold some other property in favour of third parties. The learned counsel submitted that since contemporaneous document is filed along with I.A.No.2 of 2021, the same can be used for comparison. However, as rightly pointed by the Trial Court, the original impugned sale deeds are not before the Court. The learned counsel for the petitioner submits that those sale deeds are available with the contesting respondents. In such cases, the petitioner has not taken any steps for production of original sale deeds before the Court. If at all, it is for the petitioner to issue notice to the respondents to produce the sale deeds and if it is not produced, it is for the petitioner to request the Court to take adverse inference. In the case on hand, the petitioner has not taken any steps for production of the original impugned sale deeds before the Court. When the original impugned sale deeds are not available for comparison, the present petition filed by the petitioner is misconceived and the same was rightly dismissed by the Trial Court. I do not find any error in the order passed by the Trial Court. Accordingly, the Civil Revision Petition deserves to be dismissed.

6. Further, though petitioner pleaded forgery, he has not sought for any



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prayer to set aside the sale deeds which are impugned by him. In the absence of any prayer to set aside the sale deeds, the prayer for sending those documents which are not available before the Court for comparison is not at all maintainable. Accordingly, the Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

22.02.2024

Index : Yes / No
Internet : Yes / No
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To

The learned III Additional District and Sessions Judge,
Tiruvallur, Poonamallee.

S.SOUNTHAR, J.

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