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C.R.P.(PD).No.2501 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(PD).No.2501 of 2021
and C.M.P.No.18843 of 2021

Ashokan

... Petitioner

VS

1.Sivagami

2.Mariamammal

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order dated 05.02.2020 made in I.A.No.911 of 2019 in O.S.No.350 of 2018 on the file of the Subordinate Judge, Omalur.

For Petitioner : Mr.M.Guruprasad

For Respondents : No Appearance

ORDER

The Civil Revision Petition is filed challenging the order passed by the Court below allowing the petition filed by the 1st respondent/plaintiff seeking to send for the documents mentioned in this petition from Sub-Registrar



C.R.P.(PD).No.2501 of 2021

Office, Omalur, Salem District.

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2. The 1st respondent herein filed a suit for specific performance of the Sale Agreement dated 24.08.2011. The 2nd respondent/1st defendant filed a written statement denying the execution of Suit Sale Agreement. The 2nd respondent/1st defendant further stated that agreement mentioned property was sold to petitioner herein/2nd defendant under Sale Deed dated 20.02.2012.

3. Since the execution of Suit Sale Agreement was denied by 2nd respondent/1st defendant, the 1st respondent/plaintiff filed an application to send for the signature and thumb impression register maintained by the Sub-Registrar's Office, Omalur, Salem District dated 20.02.2012, which contains the signature and thumb impression of 1st defendant-Mariammal while executing the Sale Deed dated 20.02.2012 in favour of the 2nd defendant/revision petitioner herein. The said application was allowed by the Court below on the ground that in view of denial of execution of Suit Sale Agreement by 1st defendant, the comparison of her signature found in Ex.A1-Sale Agreement with her admitted signature found in Sale Deed



C.R.P.(PD).No.2501 of 2021

executed by her dated 20.02.2012 in favour of 2nd defendant/revision petitioner would help the Court to adjudicate the main issue involved in the suit. Aggrieved by the same, the revision petitioner/2nd defendant has come by way of this civil revision petition.

4. The learned counsel appearing for the petitioner submitted that the 1st respondent as a plaintiff has to prove the due execution of the Suit Sale Agreement and in order to prove the same, the document mentioned in the petition need not be called for from the Sub-Registrar Office, Omalur. The learned counsel further submitted that there is an averment in the written statement of the 1st defendant that her signature was obtained fraudulently by plaintiff's father-in-law Kaliappan by making misrepresentation and therefore, there is no denial of signature by the 1st respondent. In such circumstances, the Court below ought not to have allowed the petition filed by the 1st respondent/plaintiff.

5. A perusal of the written statement filed by the 1st defendant would



clearly indicate that execution of the Suit Sale Agreement was denied by her.

It was clearly averred by the 1st defendant that the Suit Sale Agreement produced along the plaint was forged and created document. It was further averred that the 1st defendant never entered into the Sale Agreement with the plaintiff and the alleged Sale Agreement was forged and created document. Further, in the written statement, the 1st defendant referred to one Sale Deed in favour of the plaintiff's father-in-law-Kaliappan and General Power of Attorney etc. Only in respect of those documents, the 1st defendant averred that her signature was obtained by misrepresentation. As far as Suit Sale Agreement is concerned, she clearly denied the execution of the same by calling the Suit Sale Agreement as a forged document.

6. When there is a denial of execution of Suit Sale Agreement, it is desirable to compare the signature of the 1st defendant found in the Suit Sale Agreement with the admitted signatures. Even in the written statement, the 1st defendant had averred that she sold the property to 2nd defendant by way of registered Sale Deed dated 20.02.2012. Therefore, the present application has been filed to send for the signature/thump impression register maintained by



C.R.P.(PD).No.2501 of 2021

Sub Registrar's Office, Omalur dated 20.02.2012 to compare the admitted signature of the 1st defendant available in that document with the disputed signature in the Suit Sale Agreement. The comparison would certainly enable the Court to adjudicate the issue involved in the suit.

7. Therefore, I do not find any illegality or irregularity in the order passed by the Court below and consequently, the Civil Revision Petition is dismissed. No costs. Consequently, the connected civil miscellaneous petition is closed.

05.01.2024

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

To

The Subordinate Judge,
Omalur.



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C.R.P.(PD).No.2501 of 2021

S.SOUNTHAR, J.

dm

C.R.P.(PD).No.2501 of 2021

05.01.2024