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C.R.P.No.2749 of 2021



**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 12.01.2024**

**CORAM:**

**THE HONOURABLE MR.JUSTICE S.SOUNTHAR**

**CRP.No.2749 of 2021 and**  
**C.M.P.No.20054 of 2021**

Raji(Died)  
Sivakolundhu (Died)  
1.S.Tamilselvi  
2.R.Senthilkumar  
3.R.Sivaprakasam

... Petitioners

Vs.

Natesan (died)  
1.Raju  
2.Bhuvaneswari  
3.Kanga  
4.Sumathi  
5.Sellam

...Respondents

**PRAYER:** Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the fair and decretal order dated 20.10.2021 passed in I.A.No.404 of 2020 in O.S.No.169 of 2002 on the file of the Sub-Ordinate Judge, Attur.

|                       |                      |
|-----------------------|----------------------|
| For Petitioner        | : M/s.S.Senthil      |
| For Respondent 1      | : Died               |
| For respondent 2 to 5 | : M/S.MA.P.Thangavel |



**ORDER**

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The Civil Revision Petition is filed challenging the order passed by the Court below dismissing the petition filed by the petitioners seeking initiation of criminal proceedings against the person who had made insertions in a receipt dated 19.05.2002 marked as Ex.A2, when the document was in Court's custody.

2. The petitioners herein filed a suit for specific performance of agreement dated 17.05.2002. According to the petitioners, there was a sale agreement between the father of the petitioners namely Raju and respondents/defendants 1 to 5. It was averred by the petitioners that as per the agreement, the total agreed sale consideration was Rs.2,15,000/- and the defendants received a sum of Rs.5000/- from father of the petitioners on 17.05.2002. It was further averred that on the very same day, the respondents/defendants 1 to 5 received a sum of Rs.1,20,000/- and executed a receipt which was marked as Ex.A2 at the time of examination of 5<sup>th</sup> petitioner as P.W.1.



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3. When 5<sup>th</sup> petitioner was examined as P.W.1, he was cross-examined with regard to the date mentioned in Ex.A2. He also admitted that below the signature of typist, who prepared the Ex.A2, the date was mentioned as 19.05.2002. Thereafter, the instant application has been filed by the petitioners on the ground that date found in Ex.A2 was inserted by somebody when the document was in the custody of the Court.

4. The said petition was dismissed by the Court below by pointing out in the Xerox copy of the Ex.A2 filed by the petitioners, at the time of presentation of plaint also, the date was mentioned as 19.05.2002. Further, the Court below also pointed out in the legal notice issued by the petitioners' counsel prior to filing of the suit, his counsel had mentioned that amount of Rs.1,20,000/- was paid by father of the petitioners, Raju to the defendants only on 19.05.2002. Therefore, when the petitioners failed to establish that Ex.A2 was filed without date and the date was inserted by somebody when the document was in custody of the Court, the Trial Court rightly dismissed the petition filed by



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petitioners seeking initiation of criminal action. In the impugned order, it was also observed by the Court below that it was open to the petitioners to examine the person who prepared Ex.A2 as their witness and establish insertion, if any.

5. In view of the said observation, I do not find that petitioners are any way aggrieved by the impugned order. It is open to the petitioners to raise the question of manipulation at the time of final disposal of the suit. It is open to the petitioners to lead any evidence to prove the alleged manipulation.

6. With these observations, this Civil Revision Petition stands dismissed. Consequently, connected miscellaneous petition is closed. No costs.

**12.01.2024**

Index : Yes / No

Internet : Yes / No

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To

The learned Sub-Ordinate Judge, Attur.



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**S.SOUNTHAR, J.**

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**12.01.2024**